

Estuaries



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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures; Civil Rights; Government Employees

AGENCY: Merit System Protection Board.

ACTION: Interim regulation; request for comment.

SUMMARY: This regulation clarifies the rights of employees to elect either the exclusive negotiated grievance procedure, when applicable, or the Board's appellate procedure in actions involving discrimination under 5 U.S.C. 7702 and adverse action under 5 U.S.C. 4303 and 7512.

DATES: Effective date April 9, 1982. Comments should be submitted in writing on or before May 10, 1982.

ADDRESS: Comments should be submitted in writing and addressed to Robert E. Taylor, Secretary, Merit Systems Protection Board, c/o Legal Publications Division, Suite 1404, 5205 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Paul E. Trayers, (202) 653-7171.

SUPPLEMENTARY INFORMATION: The Board's current regulation at § 1201.3(b)(1), "Limitation on appellate jurisdiction; collective bargaining agreements and elections of procedures," provides that employees may not appeal matters to the Board when such matters are covered by a collective bargaining agreement which provides for an exclusive negotiated grievance procedure. That limitation of the Board's appellate jurisdiction does not include actions involving discrimination arising under 5 U.S.C. 7702 or adverse actions arising under 5 U.S.C. 4303 and 7512. The current regulation, although consistent with the

statute, may nonetheless lead to an incorrect interpretation when read independently of governing statutory provisions.

The Board therefore amends 5 CFR 1201.3(b)(1) to clarify the rights of employees to elect either the exclusive negotiated grievance procedure, when applicable, or the Board's appellate procedure in actions involving discrimination under 5 U.S.C. 7702 and adverse action under 5 U.S.C. 4303 and 7512.

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare initial or final regulatory analysis of this proposed rule, pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of his determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, civil rights, Government employees.

PART 1201—PRACTICES AND PROCEDURES

Accordingly, the Merit Systems Protection Board proposes to clarify 5 CFR 1201.3(b)(1) by revising it to read as follows:

§ 1201.3 Appellate jurisdiction: Definition and application.

(b) *Limitations on appellate jurisdiction, collective bargaining agreements and election of procedures.*
(1) Where an employee is covered by a collective bargaining agreement which provides for an exclusive negotiated grievance procedure for actions involving discrimination under 5 U.S.C. 7702, reduction in grade or adverse actions under either 5 U.S.C. 4303 or 7512, the employee may raise the matter under either the negotiated grievance procedure or under the Board's appellate procedures but not both. Other matters which are covered by a negotiated grievance procedure under 5 U.S.C. 7121 may not be appealed to the Board.

For the Board.

Dated: March 30, 1982.

Hebert Ellingwood,
Chairman.

[FR Doc. 82-9551 Filed 4-8-82; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program; Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a legal citation and two passages contained in the final Summer Food Service Program (SFSP) rulemaking published on February 16, 1982, at 47 FR 6790-6812. The action is necessary to correct typographical errors.

FOR FURTHER INFORMATION CONTACT:

Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756-3888. Accordingly, the Food and Nutrition Service is correcting 7 CFR Part 225 as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

1. Correcting the authority citation of Part 225 to read as follows:

Authority: Secs. 803, 807, 809, 816 and 817, Pub. L. 97-35; secs. 203 and 206, Pub. L. 96-499; secs. 5, 7, 10, Pub. L. 95-627, 95 Stat. 3603 (42 U.S.C. 1771); sec. 2, Pub. L. 95-166, 91 Stat. 1325 (42 U.S.C. 1761); sec. 7, Pub. L. 91-248, 84 Stat. 211 (42 U.S.C. 1859a).

2. Correcting § 225.8(b)(3) by adding the word "not" between "are" and "served" to read as follows:

§ 225.8 Program applications.

(b) * * *

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are not served meals under the Program.

3. Correcting § 225.18(b)(2) by deleting the phrase "in the prior three years" to read as follows:

§ 225.18 Requirements for sponsor participation.

(b) * * *

(2) Has not been seriously deficient in operating the Program.

Dated: April 5, 1982.
 Samuel J. Cornelius,
Administrator, Food and Nutrition Service.
 [FR Doc. 82-9732 Filed 4-8-82; 8:45 am]
 BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 354; Lemon Reg. 353, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period April 11-17, 1982, and increases the quantity of lemons that may be shipped during the period April 4-10, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective April 11, 1982 and the amendment is effective for the period April 4-10, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on April 6, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is very good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

1. Section 910.654 is added as follows:

§ 910.654 Lemon Regulation 354.

The quantity of lemons grown in California and Arizona which may be handled during the period April 11, 1982, through April 17, 1982, is established at 270,000 cartons.

2. Section 910.653 Lemon Regulation 353 (47 FR 14137) is revised to read as follows:

§ 910.653 Lemon Regulation 353.

The quantity of lemons grown in California and Arizona which may be handled during the period April 4, 1982, through April 10, 1982, is established at 275,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: April 8, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-9987 Filed 4-8-82 11:46 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1423

[Amendment 2]

Processed Agricultural Commodities Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Commodity Credit Corporation (CCC) regulations governing Approval Standards of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils to permit a warehouseman to furnish an irrevocable letter of credit as security in order to satisfy the standards for approval of the storage and handling of commodities which are owned by CCC, or which are serving as collateral for a price support loan issued by CCC.

EFFECTIVE DATE: April 8, 1982.

FOR FURTHER INFORMATION CONTACT: Barry W. Klein, Marketing Specialist, USDA/ASCS, Transportation and Storage Division, Storage Management Branch, Box 2415, Washington, D.C. 20013. (202) 447-7911.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformance with Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been classified as "nonmajor". It has been determined that the provisions of this final rule will not result in: (1) an annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a major impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. § 553 or any other

provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

On August 17, 1981, an interim rule was published in the *Federal Register* (46 FR 41487) amending the regulations set forth at 7 CFR Part 1423 which govern the CCC Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils. The interim rule permitted a warehouseman to furnish to CCC an irrevocable letter of credit in lieu of the required bond coverage in order to satisfy applicable CCC standards of approval. In addition, the interim rule provided that an irrevocable letter of credit would be accepted by CCC only if the issuing bank were an insured commercial bank in the United States with assets of \$100 million or more. Comments were solicited for a period of 60 days after publication of the interim rule. No comments were received during the comment period.

However, it has been brought to our attention in comments received with respect to similar changes being made in the regulations governing the Standards of Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed that a number of small commercial banks, which are accessible to warehousemen desiring to obtain irrevocable letters of credit, may not have assets of \$100 million or more. Thus, it has been concluded that the regulations at 7 CFR § 1423.3 should be revised to require only that the irrevocable letter of credit must be issued by an insured commercial bank in the United States. It is felt that this revision of regulations will adequately protect the interests of CCC.

List of Subjects in 7 CFR 1423

Agricultural commodities, honey, oilseeds, surety bonds, warehouses.

PART 1423—PROCESSED AGRICULTURAL COMMODITIES

Final rule

Accordingly, the regulations at 7 CFR § 1423.3 are amended by revising subsection (e) to read as follows:

§ 1423.3 Bonding requirements for net worth.

(e) An irrevocable letter of credit may be accepted by CCC in lieu of the required amount of bond coverage provided that the issuing bank is a commercial bank insured by the Federal Deposit Insurance Corporation. Such standby letter of credit shall be on Form CCC-33A, "Irrevocable Letter of Credit."

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (7 U.S.C. 714b).

Signed at Washington, D.C., on March 31, 1982.

Everett Rank,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-9731 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 501 and 503

[Docket No. ERA-R-81-12]

Powerplant and Industrial Fuel Use Act of 1978; Administrative Procedures and Exemption Criteria

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rules.

SUMMARY: The Department of Energy (DOE) is adopting in final form additional revisions to its rules implementing the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") to simplify further the administrative procedures and exemption criteria, and reduce the burden of obtaining an exemption under the Act. In addition, in response to comments received, DOE is clarifying several matters in its November 30, 1981, final rules.

EFFECTIVE DATE: May 10, 1982; except for § 501.7, 503.21, 503.32 and 503.35 which contain information collection requirements which are under review at OMB.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Fuels Conversion Division, Fuels Programs, Economic Regulatory Administration, Forrestal Building, 1000 Independence Avenue, SW., Room GA-093, RG-62, Washington, D.C. 20585 (202) 252-1774;

Henry K. Garson, (Office of the General Counsel), Department of Energy, Room 6B-178 Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585 (202) 252-2967;

Jack Vandenberg, (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room 7120 Federal Building, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461 (202) 633-8108.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Comments.
- III. Procedural Matters.

I. Background

On June 9, 1981, DOE proposed extensive revisions to its rules implementing FUA (46 FR 31216 (June 12, 1981)) ("June 12 NOPR"). These proposals were aimed at reducing the regulatory burden faced by the owners and operators of electric powerplants and major fuel burning installations (MFBI's) and streamlining exemption procedures under the Act. The proposal also solicited additional comments concerning the further reduction of unnecessary regulatory burdens. DOE adopted the proposed rules in final form on November 30, 1981 (46 FR 59872) (December 7, 1981)) ("final rules"). On the same date, DOE issued a notice of proposed rulemaking (46 FR 59924 (December 7, 1981)) ("December 7 NOPR") addressing the following additional issues raised during the public comment period on the June 12 NOPR:

(A) Part 500—Definitions:

1. "Alternate fuel"—Addition of tar sands and oil-impregnated diatomaceous earth.
2. "Commercial unmarketability"—Deletion of the requirement that a fuel be burned by its producer.
3. "Natural gas"—Definition of "maximum efficient production rate" of a well in terms of gas production rather than total energy production including oil liquids.
4. "Reconstruction"—Substitution, in certain specified instances, of an 80 percent test for the 50 percent test currently provided.

(B) Part 501—Administrative Procedures:

Classification of fuel as commercially unmarketable—Addition of self-certification procedure and ERA determination deadline.

(C) Part 503—Exemptions:

1. Revision of the 600 hour lack of alternate fuel supply exemption.
2. Revision of requirement to demonstrate specific debt-constraining restrictions for inadequate capital exemption.

The December 7 NOPR provided for a 30-day public comment period, which expired on January 6, 1982. Public comments were received by DOE concerning the foregoing proposals and certain aspects of the final rules.

II. Comments

Public comments received by DOE generally reflected a strong endorsement of the foregoing proposals and the final rules. The discussion which follows addresses the public comments received concerning the December 7 NOPR, and

public comments seeking certain clarifications of the final rules. Other comments, addressing substantive revisions to the final rules will receive continuing consideration by DOE, but are outside the scope of this rulemaking.

A. Comments on NOPR

1. *Alternate fuel (§ 500.20)* Comments received on this issue endorsed DOE's proposal to add tar sands and oil-impregnated diatomaceous earth to the regulatory definition of "alternate fuel," and DOE is adopting the proposal.

2. *Commercial Unmarketability (§§ 500.2, 501.7(a)(12))* DOE proposed procedures for the automatic classification as commercially unmarketable of liquid, solid and gaseous waste by-products of industrial and refinery operations and, in certain cases, natural gas, based upon submission of a simple self-certification ("Alternative A"). Under the proposal, fuels would qualify for classification under this procedure only where they were burned by their producers and could meet certain average chemical heat content and particulate standards specified in the proposal. Fuels not qualifying under "Alternative A" would continue to be subjected to case-by-case analysis ("Alternative B").

Several commenters felt that in the case of refinery waste gases, the "Alternative A" tests should be disjunctive—that is, that a gaseous refinery fuel would qualify when either the heat content or the particulate standards are met. Other commenters felt that the tests should be disjunctive for all gaseous, liquid and solid fuels. Finally, one commenter suggested that the particulate qualities standard proposed should be replaced with a test that emphasizes the variable composition and interruptible supply/demand characteristics of the waste by-product fuels.

In consideration of the foregoing comments, DOE has determined to make the heat content and particulate properties standards for liquid, gaseous and solid waste by-products disjunctive; that is, satisfaction of either test will qualify a fuel as commercially unmarketable under "Alternative A." This revision will eliminate the regulatory burden of requesting a case-by-case determination in those cases where an industrial or refinery waste by-product is clearly unmarketable by reason of quality. DOE does not agree, however, that the "variable composition" and "interruptible supply/demand" tests recommended by one commenter would provide the same degree of objectivity as the particulate properties test proposed.

One commenter suggested that DOE should be limited to only one request for additional information under § 501.7(a)(12) where a request for classification of a fuel is deficient. DOE expects to make determinations expeditiously in response to requests under "Alternative B," and has therefore adopted a 60-day action deadline. DOE does not believe that it can be bound to this deadline in cases where the information obtained from the applicant fails to address adequately the minimum requirements of the rule. In any such case, DOE will promptly identify the deficiency, and the 60-day action period will commence upon receipt of an amended request which cures such deficiency.

In response to one comment, DOE wishes to emphasize that requests for determinations of commercial unmarketability will hereinafter be governed by the standards and procedures adopted in this final rule. These standards and procedures will supersede anything inconsistent contained in DOE Ruling 1981-2 (relating to determination of commercial unmarketability).

With the foregoing revisions, DOE is adopting its commercial unmarketability standards and procedures, as proposed.

3. *Natural Gas (§ 500.2)* DOE's proposal to redefine the "maximum efficient production rate" (MEPR) of a gas well in terms of gas production rather than total liquid oil and gas production for purposes of the exclusion from the definition of "natural gas" of gas from certain marginal wells, was strongly supported by the commenters, and is adopted herein.

4. *Reconstruction (§ 500.2)* DOE proposed modification of its tests for finding reconstruction of an existing unit in several respects. Under the proposal, DOE would first apply the 50 percent reconstruction test provided for in the prior rules. Where an existing facility falls below this refurbishment/modification threshold, it would continue to be classified as existing. Where the capital costs of modification of an existing facility are estimated to exceed the 50 percent test, however, but are estimated at no greater than 80 percent of the total capital expenditures for an equivalent replacement unit (calculated on the same three year basis provided in the prior rules), DOE would not consider that facility to have been "reconstructed," provided that: (1) The unit being refurbished or modified was destroyed, in whole or substantial part, in a plant accident; or (2) the unit, as refurbished or modified, would not have a greater fuel consumption capability than the unit it replaces. In cases where

refurbishment/modification of a unit is estimated to exceed the 80 percent threshold, reconstruction would be considered to have occurred, and a new unit would be deemed to have been constructed; except that, the exception of modifications undertaken solely to increase a unit's fuel burning efficiency which will not result in increased remaining useful life or increased fuel consumption, was proposed to be retained from the prior rules.

A number of comments recommended further liberalization of the proposed standards for finding "reconstruction" of an existing unit into a new unit.

Several commenters recommended substitution for the proposed reconstruction standard for units that are refurbished or modified following a plant accident, of a fuel use limitation, restricting the replacement unit to the annual fuel use of the replaced unit, without regard to the capital costs associated with such refurbishment or modification. Other commenters recommended revision of the requirement that the modification work undertaken *solely* to increase fuel-burning efficiency must not increase the *remaining useful life* of the unit to provide, first, that the modification work undertaken *primarily* to increase fuel-burning efficiency will qualify, and second, that affected facilities may substitute plant or process life for unit life. Commenters also sought limitation of the required aggregation of capital expenditures to two rather than three years. To provide maximum flexibility under the Act to owners and operators of existing MFBI's and powerplants undertaking refurbishment of such units in the interests of enhanced fuel efficiency, or in response to emergency conditions which might threaten plant operations, DOE has adopted these suggestions in this final rule.

One commenter requested that DOE clarify that "plant accidents" would include plant damage resulting from hurricanes, tornadoes, sabotage and explosions. DOE believes that these events could be exemplary of qualifying plant accidents, but does not believe that the term should be limited by fixed examples set forth in the rule.

Finally, one comment requested that DOE delete the word "modification" from this definition, since "modifications" are usually measures to improve fuel burning efficiency, rather than basic changes in boiler capacity. DOE intends that capital expenditures for *both* refurbishment and modification of an existing unit must be considered in determining whether "reconstruction"

has taken place, and will therefore not adopt this suggestion.

5. Temporary and Permanent Exemptions for Lack of Alternate Fuel Supply—Certification Alternative for MFB's (§§ 503.21, 503.32) DOE's proposal to increase the authorized use of oil or natural gas in qualifying MFB's under these exemptions to 1500 full load hours on an annual basis was endorsed in comments received as serving the interests of fuel conservation and regulatory efficiency, and is adopted herein.

6. Permanent Exemption for Inadequate Capital (§ 503.35) DOE proposed to revise this exemption to provide that where a utility cannot demonstrate specific restrictions constraining capital availability, it may nonetheless present evidence that it cannot raise the requisite capital without a substantial dilution of shareholder equity or an unreasonably adverse effect on its credit rating. Commenters supported this change.

One commenter recommended the addition of a fourth alternative test for non-investor-owned public utilities—that capital cannot be raised without jeopardizing the utility's ability to recover its capital investment, through tariffs, without unreasonably adverse economic effects on its service area (such as adverse impacts on local industry or undue hardship to ratepayers). DOE has adopted this rule, as proposed, with the addition of the alternative test for non-investor-owned public utilities.

Another commenter suggested that considerations should be given to MFB's that can show unacceptable terms for capital availability or that available capital must be used to maintain viable operations. DOE believes that the certification procedure currently available to MFB's seeking this exemption under the final rules would already permit consideration of such factors, and has therefore not adopted this suggestion.

B. Comments on Final Rules

1. Temporary Public Interest Exemption (§ 503.25) In response to comments, DOE wishes to clarify several aspects of its certification alternative for the temporary public interest exemption in the final rules. First, petitioners requiring the temporary use of oil or natural gas in a new auxiliary unit during the construction phase of a separate alternate-fuel fired unit will qualify for the certification alternative whether the latter unit is being constructed or reconstructed to use alternate fuels. Second, for purposes of this exemption, the construction or

reconstruction phase of an alternative-fuel fired unit is deemed to include a reasonable short-term testing phase prior to the commencement of regular operations.

2. Corrections In response to comments, DOE is herein correcting typographical errors in its final rules in the following sections—definition of natural gas (§ 500.2); cost calculation (§ 503.6); no alternate power supply general requirement (§ 503.8); future use of synthetic fuels exemption (§ 503.24). The correction to § 503.8, relating to the no alternate power supply general requirement, conforms the language of the section to DOE's stated intent to allow petitioners to utilize actual fuel costs in lieu of imported petroleum prices previously required.

III. Procedural Matters

A. Section 102 of the National Environmental Policy Act (NEPA)

DOE has determined that this final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this rule is not required.

B. Regulatory Flexibility Act

DOE has determined that this final rule will not negatively impact firms that are "small entities" within the meaning of the Regulatory Flexibility Act. Accordingly, DOE certifies that this rule is not likely to have a significant economic impact on a substantial number of small entities within the meaning of that Act. Therefore, DOE is not required to publish a final regulatory flexibility analysis under section 603 of that Act.

C. Executive Order No. 12291

DOE has determined that these final regulations are not a major rule under Executive Order No. 12291, which requires the preparation of a Regulatory Impact Analysis for major regulations. These final rules will not be likely to result in an annual effect on the economy of \$100 million or more. DOE foresees no major increase in costs or prices for consumers, industries, geographic regions, or Federal, State or local government agencies. DOE does not consider it likely that the rules will result in significant adverse effects on competition, employment, investment, or productivity. Therefore, no Regulatory Impact Analysis is required. These final rules were submitted to OMB for review at least 10 days prior to their publication. The reporting and

recordkeeping requirements are not effective until OMB approval has been obtained.

List of Subjects in 10 CFR

Part 500 Business and industry, Electric powerplants, Natural gas, Petroleum.

Part 501 Administrative practice and procedure, Business and industry, Electric powerplants, Natural gas, Petroleum.

Part 503 Business and industry, Electric powerplants, Natural gas, Petroleum.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 42 FR 46267, September 15, 1977)

In consideration of the foregoing, Parts 500, 501 and 503, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below.

Issued in Washington, D.C. on March 31, 1982.

Rayburn Hanzlik,
Administrator, Economic Regulatory
Administration.

PART 500—DEFINITIONS

For the reasons set out in the Preamble, Part 500 of Chapter II, Title 10 of the Code of Federal Regulations is amended as shown below:

1. By revising the definition of "Alternate fuel" in § 500.2 to read as follows:

§ 500.2 General definitions.

"Alternate fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes, but is not limited to:

- (1) Coal;
- (2) Solar energy;
- (3) Petroleum coke; shale oil; uranium; biomass, tar sands, oil-impregnated diatomaceous earth; municipal, industrial, or agricultural wastes; wood; and renewable and geothermal energy sources (For purposes of this subparagraph (3), the term "industrial" does not include refineries.);
- (4) Liquid, solid or gaseous waste by-products of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity. (For purposes of this subparagraph (4), the term "waste by-product" is defined as an unavoidable by-product of the industrial or refinery operation.) A waste by-product of a refinery or industrial operation is

commercially unmarketable if it meets the criteria listed in the definition of "commercial unmarketability," set forth below;

(5) Any fuel derived from an alternate fuel; and

(6) Waste gases from industrial operations. (For purposes of this subsection, the term "industrial" does not include refineries.)

2. By revising the definition of "commercial unmarketability" in § 500.2 to remove the phrase "when applied to a specific fuel which is burned by its producer."

3. By revising the definition of "natural gas" in § 500.2 by removing from subparagraph (3)(ii) thereof the words "and oil" in the first sentence, and the entirety of the second sentence; and by substituting the word "of" for the word "or," the second word in subparagraph (7) of the definition.

4. By revising the definition of "reconstruction" in § 500.2 to read as follows:

"Reconstruction" means the following:
(1) Except as provided in subparagraph (2) of this definition, reconstruction shall be found to have taken place whenever the capital expenditures for refurbishment or modification of an electric powerplant or an MFBI, on a cumulative basis for the current calendar year and preceding calendar year, are equal to or greater than fifty (50) percent of the capital costs of an equivalent replacement unit of the same capacity, capable of burning the same fuels.

(2) Notwithstanding subparagraph (1) of this definition, reconstruction shall not be found to have taken place whenever:

(i) The capital expenditures for refurbishment or modification of an electric powerplant or an MFBI, on a cumulative basis for the current calendar year and preceding calendar year, are no greater than eighty (80) percent of the capital costs of an equivalent replacement unit of the same capacity, capable of burning the same fuels and the unit, as refurbished or modified, will not have a greater fuel consumption capability than the unit it replaces;

(ii) The unit being refurbished or modified was destroyed, in whole or substantial part, in a plant accident and the unit, as refurbished or modified, will not have a greater fuel consumption capability than the unit it replaces; or

(iii) Refurbishment or modification of the unit is undertaken primarily for the purpose of increasing fuel burning

efficiency of the unit, and will not result in:

(A) Increased remaining useful plant or process life, or

(B) Increased total annual fuel consumption.

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

For the reasons set out in the Preamble, Part 501 of Chapter II, Title 10 of the Code of Federal Regulations is amended by revising § 501.7(a)(12) to read as follows:

§ 501.7 General filing requirements.

(a) * * *
(12) *Procedures for determinations of commercial unmarketability.* (i) The following procedure may be used to determine if a liquid, solid or gaseous waste by-product of a refinery or industrial operation and, in certain cases, natural gas, can automatically be considered a commercially unmarketable alternate fuel under 10 CFR 500.2:

Alternative A

A fuel which is burned by its producer is commercially unmarketable—

(A) For a period, not to exceed one year, during which it is produced in quantities which are insufficient to permit a reasonable determination of its marketability; or

(B) If it meets the following requirements at 14.73 pounds per square inch and 60 degrees Fahrenheit prior to undergoing any treatment to upgrade;

(1) If gaseous, has an average chemical heat content of less than 600 Btu/cubic foot or has corrosive or suspended particle properties inferior to those of natural gas of pipeline quality;

(2) If liquid, has an average chemical heat content of less than 2.5 million Btu per barrel or has corrosive, suspended particle or dissolved particle properties inferior to those of any liquid fuel for which there is a local market; and

(3) If solid, has an average chemical heat content of less than 5,000 Btu per pound or has corrosive or ash properties inferior to those of any fuel for which there is a local market.

If the above requirements are met, a firm may consider the waste by-product to be commercially unmarketable, and must simply notify ERA in writing, upon commencement of use of the fuel, that such determination has been made.

(ii) The following procedure must be used to request a commercial unmarketability determination by ERA if the requirements of Alternative A cannot be met:

Alternative B

(A) *Filing of request.* The owner or operator of a powerplant or installation may file a request for classification of a fuel as commercially unmarketable at the address provided in 10 CFR 501.11.

(B) *Contents of request.* A request for classification of a fuel as commercially unmarketable pursuant to 10 CFR 500.2 must include a duly executed certification containing the following:

(1) Name of requester;
(2) Identification and location of unit in which the fuel is proposed to be burned;

(3) The calculations made concerning the costs and revenues involved in assessing the commercial unmarketability of the fuel and the methodology used to make the calculations, including an explanation of the numbers used (see definition of "commercially unmarketable" in 10 CFR 500.2 for a discussion of the criteria for making these calculations); and

(4) The name, address, and telephone number of the person who can supply additional information.

(C) *Decision on request.* ERA will, upon receipt, acknowledge receipt of a request and will render a decision within 60 days of the date of the acknowledgement, or, if ERA notifies the requester within this 60 day period that additional information is needed, within 60 days of the date of acknowledgement of receipt of the additional information. The failure of ERA to act on the certification at the expiration of the relevant time period will result in the automatic classification of the fuel as commercially unmarketable.

PART 503—NEW FACILITIES

For the reasons set out in the Preamble, Part 503 of Chapter II, Title 10 of the Code of Federal Regulations is amended as shown below:

§ 503.6 [Amended]

1. In § 503.6 (Cost calculations for new powerplants and installations) by correcting the word "line" in the phrase "Other useful line * * *" in paragraph (d)(5)(i) to read "life."

§ 503.8 [Amended]

2. In § 503.8 (No alternate power supply—general requirements for certain exemptions for new powerplants), by deleting the words "at imported petroleum" at the end of paragraph (b)(1).

§ 503.13 [Amended]

3. In § 503.13 (Environmental impact analysis) by amending § 503.13(b) by removing the phrase "lack of alternate fuel supply where an MFBI will not exceed 600 hours per year," and by adding in its place the phrase "lack of alternative fuel supply where an MFBI will not be operated in excess of 1500 full load equivalent hours per year."

4. In § 503.21 (Lack of alternate fuel supply), by revising § 503.21(c) to read as follows:

§ 503.21 Lack of alternate fuel supply.

(c) *Certification alternative for installations.* If the MFBI for which this exemption is being requested will be operated less than 1500 full load equivalent hours on an annual basis, the petitioner may substitute, in lieu of the requirements in paragraph (b) of this section, a duly executed certification that the unit will be operated less than 1500 full load equivalent hours annually during the period of the exemption.

Note.—Under this paragraph, a petitioner may qualify for the certification alternative even if the installation is operated more than 1500 hours per year, so long as the installation does not burn more fuel than it would require at full load for 1500 hours.

§ 503.25 [Redesignated as § 503.24]

5. By correcting the section number "§ 503.25" published at 46 FR 59911, December 7, 1982, for the future use of synthetic fuels exemption to read "§ 503.24."

6. In § 503.32 (Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum), by revising § 503.32(c) to read as follows:

§ 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

(c) *Certification alternative for installations.* If the MFBI for which this exemption is being requested will be operated less than 1500 full load equivalent hours on an annual basis, the petitioner may submit, in lieu of the requirements of paragraph (b) of this section, the following duly executed certifications:

- (1) The unit will be operated less than 1500 full load equivalent hours annually;
- (2) Use of mixture is not feasible (see § 503.9 of these regulations); and
- (3) Environmental certifications, as required under § 503.13(b) of these regulations.

Note.—Under this subsection, a petitioner may qualify for the certification alternative

even if the installation is operated more than 1500 hours per year, so long as the installation does not burn more fuel than it would require at full load for 1500 hours.

7. By revising § 503.35(a)(2) (Inability to obtain adequate capital) to read as follows:

§ 503.35 Inability to obtain adequate capital.

- (a) * * *
- (2) In the case of powerplants, the additional capital cannot be raised:
- (i) Due to specific restrictions (e.g., covenants on existing bonds) which constrain management's ability to raise debt or equity capital;
 - (ii) Without a substantial dilution of shareholder equity;
 - (iii) Without an unreasonably adverse affect on the utility's credit rating; or
 - (iv) In the case of non-investor-owned public utilities, without jeopardizing the utility's ability to recover its capital investment, through tariffs, without unreasonably adverse economic effect on its service area (such as adverse impacts on local industry or undue hardship to ratepayers).

[FR Doc. 82-9249 Filed 4-8-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission**18 CFR Part 271**

[Docket No. RM79-76-000 (Texas-13) (Order No. 221)]

High-Cost Gas Produced From Tight Formations; Navarro Formation in Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas

that the Navarro Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Victor Zabel, (202) 357-8616.

SUPPLEMENTAL INFORMATION:

Issued April 2, 1982.

In the matter of high-cost gas produced from tight formations; Docket No. RM 79-76-000 (Texas-13); Order No. 221; final rule.

The Commission hereby amends § 271.703(d) of its regulations to include the Navarro Formation in Texas as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by Director, OPR, issued October 15, 1981 (46 FR 46142, October 21, 1981) ¹ based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c) that the Navarro Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the Navarro Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.²

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101-3432; Administrative Procedure Act, 5 U.S.C. 553)

¹ Comments were invited and none were received. No Party requested a public hearing and no hearing was held.

² In its recommendation Texas concluded that under § 271.703(c)(2)(i)(A), the median *in situ* permeability of the recommended formation is 0.0615 millidarcy (md), which is below the maximum allowable of 0.1 md. Texas also found that the median stabilized flow rate is not expected to exceed 107.5 Mcf/day, which is less than the maximum allowable rate of 336 Mcf/day under § 271.703(c)(2)(i)(B), based on the average depth to the top of the formation. Using the data submitted by Texas, the Commission has calculated the average permeability and flow rate, and has found that the averages of both are within the guidelines found in § 271.703(c)(2)(i)(A) and (B).

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective April 2, 1982.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—CEILING PRICES

Section § 271.703(d) is revised by adding a new subparagraph (74) to read as follows:

§ 271.703 Tight formations.

(d) *Designated tight formations.* * * *
(74) *Navarro Formation in the Laredo Field in Texas.* RM79-76 (Texas-13).

(i) *Delineation of formation.* The Navarro Formation in the Laredo Field is found in Webb County, Texas, Railroad Commission District 4.

(ii) *Depth.* The depth to the top of the Navarro Formation in the Laredo Field is approximately -7,227 feet (subsea) in the northwest portion of the area. The base of the Navarro Formation is found at -7,735 feet (subsea) in the southeastern portion of the area. The maximum thickness of the Navarro Formation is approximately 28 feet.

[FR Doc. 82-9524 Filed 4-8-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-000 (Colorado-18)
(Order No. 220)]

High-Cost Gas Produced From Tight Formations; Dakota Formation in Colorado

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5) the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the

Dakota Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

In the matter of high-cost gas produced from tight formations; Docket No. RM79-76-000 (Colorado-18); Order No. 220; final rule.

Issued: April 2, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include a portion of the Dakota Formation in Colorado as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPR, issued October 8, 1981 (46 FR 50563, October 14, 1981) based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) that the Dakota Formation be designated as a tight formation.

As shown below, evidence submitted by Colorado supports the assertion that the Dakota Formation meets the guidelines contained in § 271.703(c)(2). The Commission therefore adopts the recommendation for the reasons set forth below.

Two parties filed comments in response to the Notice of Proposed Rulemaking. One party, Conoco, Inc., supported the Colorado recommendation. Southern California Gas Company (SoCal), the other commenter, filed a comment opposing the designation of the Dakota Formation as a tight formation. The basis for SoCal's position is as follows.

On November 9, 1959, Colorado issued Order 112-6, which established 640-acre spacing units in the Ignacio-Blanco Field for production of gas from the Dakota Formation, including among others, the area recommended in this proceeding. In Order 112-46, issued July 16, 1979, Colorado issued an infill drilling order which allowed additional wells to be drilled on the 640-acre units established in Order 112-6. Section 271.703(c)(2)(i)(D) of the Commission's regulations provides that areas which are authorized to be developed by infill drilling and which can be developed absent the incentive price should not be included in a recommendation for tight formation designation by the jurisdictional agency. In Order No. 137, issued March 30, 1981, the Commission excluded from tight formation designation some areas which had been authorized to be developed by infill drilling and which had been

substantially developed at the time that infill drilling was authorized. Under this provision and the test applied by the Commission in Order No. 137, SoCal requests that the Commission exclude the Dakota Formation of the entire Ignacio-Blanco Field from designation as a tight formation. In support of its position SoCal stated:

Testimony was submitted before [Colorado] to demonstrate that only 104 of the 540 available drilling units in the Ignacio-Blanco-Dakota Field were developed at the time the infill drilling order was issued. However, this is based upon the very extensive area which has been designated as the Ignacio-Blanco Field.

If a more limited designation was made of only those portions of the Dakota Formation which have been found to contain producible hydrocarbon saturation, the number of "available drilling units" might be reduced to only one-third or one-quarter of the 540 which can be counted within the present field limits. Of course, this would mean that from 58 to 77 percent of the revised total "available drilling units" were developed by the 104 units on which drilling had taken place at the time of issuance of Colorado's 1979 infill drilling order.

SoCal claims that such a high percentage of drilling demonstrates that substantial development of the formation has occurred and that therefore, the entire Dakota Formation of the Ignacio-Blanco Field should be considered substantially developed prior to the issuance of the infill drilling order, Colorado Order 112-46.

The Commission has reviewed SoCal's comments, and has concluded that even if Colorado had limited its recommendation to only those portions of the Dakota Formation which have been found to contain producible hydrocarbon saturation, and the number of available drilling units was reduced accordingly, the percentage of developed units to units available would be 41 percent. The Commission calculated the percentage of developed units to undeveloped units as follows. Within the area designated by Colorado a more limited area was demarcated to encompass all the units in which a well had been drilled prior to the issuance of the infill drilling order (developed units). This marked area also included the undrilled units which are interspersed between the drilled units. Then, the total number of developed units was divided by the total number of available units in the marked area. The result was that 41 percent of the units in the marked area had been developed at the time of issuance of the infill drilling order. Thus, the percentages of developed units to non-developed units proffered by SoCal, ranging from 58 percent to 77 percent are not substantiated. Moreover, the

Commission does not believe that 41 percent development constitutes substantial development, justifying the exclusion of the area from the tight formation designation.

For the reasons discussed above, the Commission adopts the Colorado recommendation that the Dakota Formation be designated as a tight formation under § 271.703(d).

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, High cost gas, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective April 2, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding a new subparagraph (75) to read as follows:

§ 271.703 Tight formations.

(d) *Designated tight formations.* * * *

(75) *The Dakota Formation in Colorado.* RM79-76 (Colorado-18).

(i) *Delineation of formation.* The Dakota Formation underlies portions of Townships 32, 33 and 34 North (South of Ute Line), Ranges 6 through 11 West, in La Plata and Archuleta Counties, Colorado, and it is within the Ignacio-Blanco Field.

(ii) *Depth.* The Dakota Formation is below the Graneros Shale and above the Morrison Formation. The average depth to the top of the Dakota Formation is 7,950 feet. The formation is approximately 225 to 250 feet in thickness.

(FR Doc. 82-9522 F) Filed 4-8-82; 8:45 am)

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-000 (Colorado-19); Order No. 219]

High-Cost Gas Produced From Tight Formations; Mesaverde Formation in Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts in part the recommendation of the Colorado Oil and Gas Conservation Commission that the Mesaverde Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued: April 2, 1982.

In the matter of high-cost gas produced from tight formations; Docket No. RM79-76 (Colorado-19); Order No. 219; final rule.

The Commission hereby amends § 271.703(d) of its regulations to include the Mesaverde Formation in Colorado as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPRR, issued October 8, 1981 (46 FR 50564, October 14, 1981) based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703(c) that the Mesaverde Formation be designated as a tight formation.

As shown below, evidence submitted by Colorado generally supports its assertion that the Mesaverde Formation meets the guidelines contained in § 271.703(c)(2). The Commission generally adopts the recommendation, with the modification discussed below.

Section 271.703(c)(2)(i)(D) of the Commission's regulations provides that in making recommendations of tight formation areas to the Commission, a jurisdictional agency should not include any formation or portion thereof

[i]f the formation or any portion thereof was authorized to be developed by infill drilling prior to the date of recommendation and the jurisdictional agency has information which in its judgment indicates that such formation or portion subject to infill drilling can be developed absent the incentive price established in paragraph (a) of this section.

Colorado's submittal indicated that the Mesaverde Formation in the recommended area was authorized to be developed by infill drilling prior to the date that Colorado made its recommendation to the Commission that the Mesaverde Formation be designated as a tight formation. In Order 112-6, issued by Colorado on November 9, 1959, 320-acre drilling and spacing units for the production of gas from the Mesaverde Formation were established. On July 16, 1979, Colorado issued Order 112-46, in which it found that the drilling of additional wells on such drilling and spacing units was necessary to effectively and efficiently drain that part of the reservoir underlying said units.¹ This order allowed the drilling of an additional well on each 320-acre unit.

According to evidence contained in Colorado's recommendation, 399 of the 1,056 available drilling units in the Ignacio-Blanco-Mesaverde Field were developed at the time the infill drilling order was issued, on July 16, 1979. As of the date of Colorado's hearing in this tight formation recommendation, on July 21, 1981, 435 units were developed, with 80 of these units containing a second well.

Colorado stated in its recommendation that the number of wells drilled subsequent to the issuance of the infill order (an increase from 38 percent to 42 percent of the total available units with at least one well drilled), does not constitute significant development. Colorado further stated that "no information is available which would indicate that additional drilling would occur without the expectation of the incentive price."

A comment to the Notice of Proposed Rulemaking was filed by Southern California Gas Company (SoCal) in which SoCal urged the Commission to exclude from its designation as a tight formation portions of Colorado's

¹ Colorado's regulations require that " * * * no drilling unit shall be smaller than the maximum area that can be efficiently and economically drained by one well." Title 34, Article 60, C.R.S. 1973, Rule 116(2).

recommendation. SoCal claims that although only 399 out of 1,056 available drilling units were developed at the time the infill drilling order was issued, the number of available units which have been found to contain producible hydrocarbon saturation is only about half of 1,056. By reducing the number of available units to include only those on which producible hydrocarbons are known to exist, 75 percent of the total units would have been developed at the time the infill drilling order was issued. SoCal states that such a high percentage of drilling demonstrates substantial development in at least a portion of the recommended formation. SoCal then concluded:

If the Mesaverde Formation is a blanket formation in which the formation is uniform throughout the designated Field area then the entire Field can be considered substantially developed. The reasons a Field may be drilled in only certain portions although the underlying formation is uniform, are, among others, the access to pipelines, the ability to market the gas, and the availability of drilling rigs in the area, etc. None of these issues were discussed extensively at the Colorado Commission's hearing. SoCal therefore believes that the entire Mesaverde Formation of the Ignacio-Blanco Field should be considered substantially developed prior to Colorado Order 112-46.

After reviewing the Ignacio-Blanco Field Area Mesaverde Level of Development Plat, submitted as an exhibit by Colorado, the Commission finds that the vast majority of Mesaverde producing wells are contained in a limited area of the field, which includes less than one-half the total number of drilling units. This "producible" area is located within the central and southern portions of the Ignacio-Blanco Field, bounded on the northwest where the Mesaverde Formation is found on the surface, within the recommended area, and in the northeast where the Mesaverde is close to the outcrop where the presence of producible gas is questionable. If this condensed area were treated as the known hydrocarbon bearing area, the status of development at the time of the infill order would have been, as SoCal stated, 75 percent.

The Commission believes that this degree of development prior to the date that infill drilling was authorized is substantial and such substantial development requires that the area be excluded under the guideline established in § 271.703(c)(2)(i)(D). Although Colorado states that it has no information indicating that the area would be developed absent the incentive price, the Commission believes that the substantial development of the

area described above creates a contrary presumption. This presumption is further supported by the fact that in Colorado, an infill drilling order is evidence of the finding that the area can be economically drained by the number of wells authorized (see footnote 1). When the infill drilling order was issued, the available pricing for the gas produced from this area was considerably less than the incentive price for tight formation gas set by the Commission in Order No. 99. Thus, this further indicates that production of this gas was not dependent on the availability of the tight formation gas incentive price.

For the above reasons, the Commission is excluding from the designation of the Mesaverde Formation as a tight formation, 400 units of 320-acre spacing² which had been developed prior to the date of Colorado's infill drilling order. Exclusion of these units does not preclude them from future consideration as a tight formation if sufficient economic data should become available which would show that all or part of the excluded area would not be further developed absent the incentive price under NGPA section 107(c)(5). This finding is consistent with previous Commission action in Docket No. RM79-76, Order Nos. 124, 137 and 137-A, and 148. Over sixty-two percent of the recommended area is being designated as a tight formation.

SoCal also commented on the question of whether the recommended formation satisfied the stabilized flow rate guideline found in § 271.703(c)(2)(i)(B). Based on testimony presented at the hearing convened by Colorado on the recommendation, SoCal urged the Commission to look at this issue closely. The Commission has carefully reviewed the data presented by Colorado to satisfy the guideline found in § 271.703(c)(2)(i)(B), and finds that the evidence supports Colorado's finding that the stabilized flow rate is not expected to exceed the maximum allowable rate.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

²Exhibit No. 9 submitted by Colorado demonstrates that there were in fact a total of 400 units, not 399, that were developed prior to the issuance of the infill drilling order. A list of these areas is attached as an Appendix hereto.

List of Subjects in 18 CFR Part 271

Natural gas, high cost gas, tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

PART 271—CEILING PRICES

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below effective April 2, 1982.

By the Commission.
Kenneth F. Plumb,
Secretary.

Section 271.703(d) is revised by adding a new subparagraph (76) to read as follows:

§ 271.703 Tight formations.

(d) *Designated tight formations.* * * *
(76) *Mesaverde Formation in Colorado.* RM79-76 (Colorado-19).

(i) *Delineation of formation.* The Mesaverde Formation underlines Townships 32, 33 and 34 North (South of Ute Line), Ranges 6 through 11 West, in La Plata and Archuleta Counties, Colorado. The formation is within the Ignacio-Blanco Field.

(ii) *Depth.* The Mesaverde Formation is below the Lewis Shale Formation and above the Mancos Shale Formation. The average depth to the top of the Mesaverde Formation is 5,380 feet. The formation is approximately 900 feet in thickness.

Appendix

R6W T32N: Sections 5 S½, 6, 7, 8 W½, 10 W½, 12 S½, 13 S½, 14 N½, 15 W½, 16, 17 W½, 18, 19, 20 W½, 24 E½, and E½ of W 42.

R7W T32N: Sections 1-16, 17 N½, 18-22, 23 W½, 24 E½ and E½ of W½.

R7W T33N: Sections 7 E½, 8 S½, 15, 16 S½, 17 N½, 18 W½, 19 W½, 21, 22 N½, 23 S½, 25 S½, 26, 27 W½, 28 W½, 19 W½, 30-33, 34 E½, 35 and 36.

R8W T32N: Sections 1-3, 4 N½, 5, 6 W½, 9 E½, 10 E½, 11-14, 15 E½, 17 S½, 18, 19 W½, and W½ of E½, 22 E½ of E½, 23 and 24.

R8W T33N: Sections 1, 2, 3 S½, 4 S½, 5-9, 10 S½, 11 S½, 15-23, 24 S½, and 25-36.

R9W T32N: Sections 1 N½, 2 S½, 3 S½, 4 S½, 5 E½, 6-9, 10 S½, 11 S½, 13 N½, 15 W½, 16, 17, 18 E½, 19 W½, and W½ of E½.

R9W T33N: Sections 1 N½, 2 S½, 3 N½, 4-14, 15 W½, 17-20, 22, 23 S½, 24 W½, 25-28, 29 E½, 30, 31, 32 W½, 33, 34 S½, 35, and 36 W½.

R9W T34N: Sections 19 W½, 29 E½, 30 through 32, 33 W½.

R10W T32N: Sections 1, 2, 3 E½, 4 S½, 5 N½, 6 N½, 7, 8, 9 N½, and 10-24.

R10W T33N: Sections 1 W½, 2, 3, 4 S½, 5 S½, 6, 8, 9 W½, 10-15, 21 W½, 22 S½, 23, 24,

25 E½, 26, 27, 28 S½, 29 S½, 30 E½, 31 E½, 32 and 34-36.

R10W T34N: Sections 24 S½, 25, 26 E½, 27 S½, 28 S½, 31 S½, 32 N½, 33 N½, 34, 35 E½ and 36.

R11W T32N: Sections 1, 10-16, 18 S½, and 19-24.

R11W T33N: Sections 14 N½, 25 E½, 27 E½, and 34 S½.

[FR Doc. 82-9523 Filed 4-9-82; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income and Medicaid; Continuation of Benefits and Eligibility for Certain Severely Impaired Recipients Who Work

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations implement sections 201 (a) and (b) of Pub. L. 96-265, which provide, in part, for the continuation of Supplemental Security Income (SSI) benefits and eligibility for Medicaid for certain severely impaired SSI recipients who work. States which elect to do so may augment the cash benefits with State supplementary payments. The regulations also provide for retaining eligibility status for Medicaid for certain of these individuals who become ineligible for SSI cash benefits because of their earnings. Sections 201 (a) and (b) of Pub. L. 96-265 had provided that these recipients might also retain their eligibility for title XX social services. However, this potentiality for eligibility to title XX services was revoked, effective October 1, 1981, by section 2353(c) of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981.

Sections 201 (a) and (b) are effective for a 3-year period beginning January 1, 1981. The regulations will affect severely impaired SSI recipients who work and have earnings, including those whose earnings exceed the established substantial gainful activity (SGA) limits. As long as their earnings and other income do not exceed income limits prescribed in the SSI program (20 CFR Part 416, Subpart K) these individuals may receive special SSI cash benefits. If, because of their earnings, their income exceeds the income limits, they may still be considered SSI recipients for purposes of Medicaid eligibility if they meet certain conditions. SSI recipients who are blind are also covered under this latter provision.

EFFECTIVE DATE: These regulations are effective April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Fred Miranda, Legal Assistant, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7341.

SUPPLEMENTARY INFORMATION:

Law and Regulations Governing the SSI Program

Under present law, an individual who is severely impaired may qualify for SSI disability payments only if he or she " * * * is unable to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." (See 20 CFR 416.905.) Under current regulations (20 CFR 416.974), SGA is principally described in terms of dollar amounts of earnings above which an individual is presumed to be engaging in SGA. Earnings over this amount (\$300 a month in years after 1979) are generally considered to show ability to do SGA other than during a period of trial work, and before 1/1/81 (the effective date of section 1619 of the Social Security Act) were a basis for stopping SSI benefits. The trial work period (TWP) is a period of up to 9 months, which do not have to be consecutive, during which an individual may test his or her ability to work and still be considered disabled (20 CFR 416.992).

Problems Under Pre-1981 Policies

In recent years there has been concern that the SSI disability program actually discouraged recipients from trying to go back to work. A severely impaired individual who became ineligible for SSI benefits could also lose Medicaid since eligibility for these benefits is frequently tied to receipt of SSI benefits. While earnings at least partially offset the loss of SSI cash benefits, Medicaid was rarely replaced. Thus, a severely impaired recipient who was thinking of going to work may have decided not to rather than face the combined loss of benefits under SSI and Medicaid which more than offset the potential gain from earnings.

Provisions of Pub. L. 96-265

Pub. L. 96-265, "The Social Security Disability Amendments of 1980," enacted on June 9, 1980, contains several work incentive provisions. Section 201(a) of Pub. L. 96-265 offers work incentives through a 3-year demonstration project. This demonstration project provides that an

individual with a disabling impairment who loses eligibility for regular SSI benefits based on disability because he or she works and demonstrates the ability to perform SGA may become eligible for special SSI cash benefits. These benefits are computed in the same way as the regular SSI benefits payable to individuals who are disabled. They may be augmented by State supplementary payments if a State elects to do so.

An individual may qualify for these special SSI cash benefits if—

(1) In the month before the month for which eligibility is being determined, he or she was eligible for regular SSI benefits, special SSI cash benefits or State supplementary payments; and

(2) In the month for which eligibility is being determined, he or she is not eligible for regular SSI benefits based on disability because he or she works and demonstrates the ability to engage in SGA.

The special SSI cash benefits are payable for months through December 1983 so long as the individual continues to have a disabling impairment and to meet all other requirements for SSI eligibility.

An individual who receives special SSI cash benefits maintains his or her SSI recipient status for purposes of eligibility for Medicaid and title XX social services. Thus, the individual is determined eligible for Medicaid and title XX services on the same basis as a person who receives regular SSI benefits. (All references in this discussion to title XX services pertain only to potential eligibility for those services or our evaluation of the use of those services for purposes of section 1619 between January 1, 1981 and October 1, 1981.)

If an individual's earnings and other income are great enough to reduce his or her Federal SSI benefits to zero, eligibility for the special SSI cash benefit ends. (State supplementary payments may continue depending on the amount of his or her income). However, even if cash benefits are stopped because of earnings, a severely impaired or blind individual (under 65 years of age) who was eligible for regular SSI benefits, special SSI cash benefits, or State supplementary payments in the month before the first month for which eligibility is being determined, may still acquire a special SSI eligibility status for purposes of Medicaid and title XX social services. This special eligibility status, under which the individual is considered a blind or disabled individual receiving SSI benefits, applies as long as the

individual: (1) Continues to be blind or have a disabling impairment; (2) except for earnings, continues to meet all the other requirements for SSI eligibility; (3) would be seriously inhibited from continuing to work by the termination of eligibility for Medicaid or title XX social services; and (4) has earnings that are not sufficient to provide a reasonable equivalent of the benefits (SSI, State supplementary payments, Medicaid and title XX social services) which would be available if he or she did not have those earnings.

The demonstration will produce information from which Congress can evaluate the effectiveness of the special benefits provisions in section 201(a) in promoting work by SSI recipients who are blind or have disabling impairments and consider any administrative problems that may arise. To facilitate this evaluation, the Social Security Administration is required to account separately for the funds that are spent in implementing sections 201 (a) and (b).

Provisions of Pub. L. 97-35

Effective October 1, 1981, the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) established title XX as a block grant to States for social services. The Act eliminated statutory eligibility requirements for title XX services, including eligibility based on receipt of SSI (Supplemental Security Income) benefits. A conforming amendment to the block grant (Section 2353(o)) deleted references to title XX from section 1619 of the Social Security Act. Prior to October 1, 1981, all individuals who applied for, and were found eligible to receive special SSI cash benefits or a special SSI eligibility status under section 1619 remained categorically eligible for title XX services based on their SSI status. However, beginning October 1, 1981, States are no longer required by Federal law or regulations to provide services to individuals based on their SSI status under section 1619.

As a result of Pub. L. 97-35, an individual who receives special SSI cash benefits maintains his or her SSI recipient status for purposes of eligibility to Medicaid only, rather than for purposes of eligibility for both Medicaid and title XX social services. The special SSI eligibility status that severely impaired or blind individuals (under age 65) may acquire under section 1619 of the Social Security Act applies only for purpose of eligibility for Medicaid. Also, the average expenditure for title XX services to disabled and blind SSI recipients will not be taken into consideration in establishing the criteria for section 1619(b) eligibility.

Prior Publication

Interim regulations describing the rules that SSA would follow in implementing sections 201 (a) and (b) of Pub. L. 96-265 were published on January 22, 1981 at 46 FR 6903. These interim rules provided for a 60 day comment period which expired on March 23, 1981. They explained the special SSI cash benefits that are available for severely impaired individuals who work and demonstrate the ability to perform substantial gainful activity. They also described the special SSI eligibility status that could apply to blind and severely impaired individuals who work and whose earnings caused him or her to have income that was too great to permit eligibility for SSI benefits. The interim regulations listed the two criteria an individual must meet to receive special benefits, and the two additional criteria needed to acquire the special eligibility status.

Comments on Prior Publication

Comments and views were expressed by several State social service and Medicaid offices, two legal services offices, a home health care agency and individual members of the public. Some comments dealt with the regulations generally, whereas others concerned specific aspects, such as the Medicaid or title XX social services provisions. We will not reply to the comments that concern title XX since the provisions of section 1619 no longer apply to that title.

General

Comment

Several State agencies expressed comments in favor of these regulations. They stated that the provisions of these regulations were a positive step toward providing work incentives. In addition, these agencies believe that the use of thresholds in determining special SSI eligibility status is both reasonable and functional.

Comment

One commenter expressed concern that these regulations are too complex to accomplish the intent of the legislation to encourage individuals to go back to work.

Response

We recognize the complexity of the new legislation and the implementing regulations. However, we have attempted to produce the simplest regulations possible while at the same time fulfilling the mandate of the legislation. In developing these regulations, we consulted various sources including regional offices, States

and other interested parties, to ensure that our policies were feasible and would adequately carry out the intent of this provision.

Exchange of Information

Comment

Some commenters expressed concern about the procedure under which SSA notifies State Medicaid and title XX agencies, via the State Data Exchange (SDX), when special eligibility status is under evaluation and when a special eligibility status determination has been made. They indicated that States would need some lead time to modify their data systems to accept and react to new information.

Response

SSA was first capable of transmitting this information via SDX in April 1981, and program instructions were sent to States before that time. Before April, procedures were established to notify States of special eligibility status other than by SDX. We believe that by this time all States are capable of receiving eligibility data via SDX.

Comment

Two State agencies commented that States may not have the capability to supply SSA with a breakdown of an individual's actual Title XIX medical costs.

Response

We are aware that a State Medicaid agency may be unable to provide this information because it does not have an automated data processing system that is currently programmed to produce this data. As we noted in the preamble to the regulations published on January 22, 1981, in such cases SSA will request the information from the appropriate Medicaid providers. The recipient may also assist in obtaining this information.

Eligibility

Comment

Two State agencies believe that expanding the number of Medicaid eligibles would not be prudent in the face of current proposed budget cuts by the Administration. Another commented that this would lead to a drain on already limited titles XIX and XX funds.

Response

Since this expansion is mandated by statute (section 1619 of the Act), we are unable to consider any changes with respect to this recommendation. Title XX funds will, of course, not be involved after September 1981.

Comment

Two commenters suggested that SSI recipients should be permitted to maintain Medicaid eligibility regardless of certain factors; for example, even if an individual's income exceeds certain limits for SSI eligibility.

Response

We cannot adopt this recommendation because section 1619 specifies certain requirements that must be met for continued Medicaid eligibility. These requirements are that the individual:

- (1) Continues to be blind or have a disabling impairment;
- (2) Except for earnings, continues to meet all the other requirements for SSI eligibility;
- (3) Would be seriously inhibited from continuing to work by the termination of eligibility for Medicaid or (until October 1, 1981) title XX social services; and
- (4) Has earnings that are not sufficient to provide a reasonable equivalent of the benefits (SSI, State supplementary payments, Medicaid and, until October 1, 1981, title XX social services) which would be available if he or she did not have those earnings.

*Utilization**Comment*

One commenter suggested that there is no need to verify past utilization of services because future need for services would be sufficient to ensure eligibility.

Response

We are not verifying past utilization solely to establish eligibility. Section 201(e) of Pub. L. 96-265 requires the Secretary to provide for separate accounts with respect to benefits payable under these provisions in order to evaluate the effect of the programs established under this legislation. To properly evaluate the effect, we believe that accurate information is required regarding an individual's utilization of services before the implementation of these provisions as compared to after.

Comment

One State Welfare Department commented that many beneficiaries may find it difficult to supply information on past utilization of services and suggested that information of this type be obtained from State Medicaid and title XX agencies.

Response

Because not all State agencies will be able to produce this data, we believe the recipient is the appropriate initial source

for this information. However, we do see merit in the commenter's suggestion. Therefore, in those situations where a State has an automated data processing system that is currently programmed to produce this data, we may obtain the information from the State agency rather than requiring it from the recipient.

*Threshold Amount**Comments*

One commenter expressed concern that the Medicaid threshold figures used to determine if criterion four is met are out of date and, therefore, are too low. Further, a suggestion was made that we update threshold figures annually and publish them in the *Federal Register* and make these new figures available to States and other interested parties through Social Security district offices.

Response

As we indicated in our January 22 publication, these Medicaid threshold figures are based on the most appropriate data available for use in light of the limited time we had to implement the program. Adjustments were made for inflation (12 percent compounded annually). However, we plan to use and to distribute updated data to States and Social Security district offices when it becomes available.

Comment

One individual suggested that our threshold figures should, in some manner, reflect the degree of an individual's impairment; for example, there could be two sets of threshold figures depending on how severe the impairment.

Response

We are unable to accept this recommendation for two reasons. First, the statute does not recognize distinctions between degrees of impairment for SSI eligibility; therefore, we do not believe it would be proper to reflect these distinctions in our threshold amounts. In addition, we know of no source from which to obtain data which distinguishes average medical expenses among different degrees of impairments.

Comment

One commenter believes that case-by-case determinations should be made under criterion four rather than using a threshold approach.

Response

We believe using a threshold formula as a means to implement criterion four expedites the eligibility process and

reduces the administrative burden of making individualized evaluations. In addition, the threshold concept most closely approaches the stated Congressional intent that State-by-State information be used in establishing reasonable income limits to carry out criterion four. Further, we do make individualized evaluations where it is determined that the person's gross earnings exceed the threshold amount. Therefore, we have retained the use of a threshold for criterion four.

Comment

One organization believes that these regulations should address the matter of Medicaid spend-down; that is, an individual whose income exceeds the threshold amount under criterion four should be permitted to spend-down in order to meet this criterion.

This organization also suggested that in determining the first element of the threshold amount (SSI and State supplementary amount), all appropriate income exclusions should be applied rather than only those in 20 CFR 416.1112(c) (3) and (4). One example would be the exclusion of work-related expenses for the blind under § 416.1112(c)(5).

Response

Spend-down is a method used under title XIX by which an individual's excess income (the amount that exceeds the specified financial eligibility level) is offset by incurred medical expenses to establish Medicaid financial eligibility for certain groups of individuals. However, the determination of eligibility for special cash benefits and special eligibility status in these regulations is a determination of continued SSI status. Therefore, spend-down would not apply in making SSI determinations under these provisions, although individuals determined eligible under these provisions are treated as any other SSI eligible within a State. Thus, any State spend-down procedures established for SSI recipients would apply for these individuals as well.

As for the application of appropriate income exclusions to the threshold amount, we rejected this approach since the consideration of specific exclusions in the threshold formula would result exclusively in case-by-case determinations. For reasons stated previously, we do not believe a case-by-case approach is appropriate.

*Reconsideration**Comment*

One commenter believes that these regulations should address termination

and hearings procedures for individuals covered under this provision of the statute.

Response

The individuals affected by these regulations have the same rights as any other individuals being considered for SSI eligibility. Termination and hearings procedures would not differ for this group. These rules appear in Subparts M and N of current regulations at 20 CFR Part 416. Therefore, we believe there is no need to repeat current procedures in these regulations.

Changes in the Regulations

All of the changes to Part 416 of Chapter III of Title 20 of the Code of Federal Regulations which were published as interim rules on January 22, 1981 at 46 FR 6903 and subsequently codified in the Code of Federal Regulations on April 1, 1981, are shown for reader convenience. Some of these rules are being repeated even though they are not being changed by this final rule.

We made a clarifying change in § 416.268. This section now specifically identifies the information that we will be requesting when a person submits a statement of services. Since the interim regulations were not as specific as the revised § 416.268, a possibility existed for securing more information than we needed; the revised regulations preclude this possibility. In addition, we made a technical change in § 416.269(a) in order to make our description of the first element of the threshold amount simpler and clearer.

The final regulations also reflect the changes necessitated by section 2353(o) of Pub. L. 97-35. These changes were technical in nature, deleting as they did the references to title XX. Public comment on these changes would serve no useful purpose since they were mandated by statute and did not involve any exercise of discretion on our part. Accordingly, the proposed rulemaking procedures of the Administrative Procedure Act are unnecessary in this instance and thus waived under the authority of 5 U.S.C. 553(b)(B).

The Regulations

20 CFR 416.261-416.262 discuss the special SSI cash benefits and explain when these benefits are payable. 20 CFR 416.264-416.269 provide similar information about the special SSI eligibility status under which an individual is considered a blind or disabled individual receiving SSI benefits for purposes of Medicaid and until October 1, 1981, title XX social services. (Also, until October 1, 1981,

social services under title XX were a factor in determining who was eligible for the special SSI eligibility status.) 20 CFR 416.266 explains that even though SSI payments have been stopped, an individual will continue to be considered an SSI recipient during the time it takes SSA to determine whether he or she qualifies for the special eligibility status. 20 CFR 416.268 specifically identifies the kinds of information SSA will have to obtain from other sources to determine whether an individual qualifies for the special eligibility status. 20 CFR 416.1402 explains that determinations of eligibility concerning the special SSI cash benefits and the special eligibility status are initial determinations subject to the same appeal procedures that apply to other SSI determinations. 20 CFR 416.2001 explains that a state which makes State supplementary payments has the option of making these payments to individuals who are eligible for the special SSI benefits.

When determining an individual's eligibility for the special SSI cash benefits and for the special SSI eligibility status, SSA will verify that the individual continues to be blind or to have a disabling impairment (first criterion) by applying the rules in 20 CFR Part 416, Subpart I (see 45 FR 55621). When determining whether an individual continues to meet all other requirements for SSI eligibility (second criterion), SSA will follow the rules in 20 CFR Part 416, Subpart B.

In determining whether the special SSI eligibility status applies SSA must also establish that the individual's ineligibility for SSI cash benefits is due to earnings from work which caused him or her to have excess income and that two additional criteria are met. The two additional criteria to be met for the special eligibility status are:

(a) The individual's ability to continue working would be seriously inhibited by the termination of eligibility for Medicaid (third criterion); and

(b) The individual's earnings would be insufficient to provide a reasonable equivalent of benefits under title XVI (SSI), and title XIX (Medicaid), which would be available to him or her in the absence of such earnings (fourth criterion).

To make a determination about the third criterion, SSA will first obtain a signed statement from the individual which:

(1) Describes the services received under Medicaid from each service provider in the present month and in the past 12 months. (The statement will include the provider's name and address, the type of treatment and the

beginning and ending dates and frequency of treatment); and

(2) Identifies the types of services he or she expects to need in the next 12 months.

SSA will verify that services were provided when the statement shows that the individual has received services under Medicaid.

SSA will confirm the receipt of Medicaid services for the previous 12 months by obtaining information from the State Medicaid agency about the services received, dates of the services and amount paid for them. If the State Medicaid agency is unable to provide the information because it does not have an automated data processing system that is currently programmed to produce this data or if the information is not otherwise made available to SSA by the State, SSA will request the information from the appropriate Medicaid providers. The recipient may be required to assist in obtaining this information. Generally, SSA will accept recipient statements regarding the current month's use as well as expected use of Medicaid services.

If past use can be established, or if there is no past use and the need for current services or future use of Medicaid can be established, the individual meets criterion three.

To determine if the fourth criterion is met, SSA will apply an initial screen based on a review of earnings. This will involve comparing the individual's gross earnings to a threshold amount. Briefly, the threshold amount (which is explained more fully later) is defined as the sum of the following:

(1) The minimum level of earnings for an individual with no other income, living in his or her own household, which will reduce that individual's SSI and State supplementary payments to zero; and

(2) The average expenditures for Medicaid benefits for disabled SSI cash recipients in the individual's State of residence.

SSA will base the gross earnings used in this comparison on the first quarter for which special eligibility status is being determined and on a projection for the next three quarters. Whenever possible, SSA will verify earnings by using documents in the individual's possession or through contacts with the individual's employer(s). If the individual's earnings are less than or equal to the threshold amount, he or she meets criterion four. If the earnings are greater than the threshold amount, the individual may still meet criterion four if SSA can establish that the actual sum of past medical costs, together with the SSI

and State supplementary amount described earlier in number one, are greater than his or her gross earnings. If the person's gross earnings are less than or equal to this amount, he or she meets criterion four. If they are greater, the person does not qualify for the special SSI eligibility status.

Explanation of the Threshold Amount

SSI and State Supplementary Amount

The first element of the threshold amount is the minimum level of earnings for an individual with no other income, living in his or her own household, which will reduce that individual's SSI and State supplementary payments to zero. The amount will vary from State to State depending upon the amount of any State supplementary payment. (The basic Federal SSI benefit is currently \$264.70 a month or \$3,176.40 for 12 months.)

For purposes of illustration, let us suppose that a State's supplementary payment to a person living in his or her own household equals \$62 a month, or \$744 for 12 months. In that case, the combined Federal and State benefit for 12 months would equal \$3,920.40 (\$744 + \$3,176.40). To arrive at the amount of the first element used in the threshold we multiply the yearly benefit of \$3,920.40 by 2 and add the yearly exclusions of \$240 and \$780 (See § 416.1112(c) (3) and (4)). In this example the first element of the threshold would be \$8,860.80 for 12 months.

Adjusted Average Expenditures for Medicaid

The adjusted averages for Medicaid were obtained from information reported by the States for fiscal year (FY) 1977. Adjustments were made for the five States which did not report and all of the figures were adjusted for inflation (12% compounded annually). (States report this information on form HCFA 2082, Statistical Report on Medical Care; Recipients' Payments and Services, which was formerly form NCSS-2082).

Rationale for the Threshold Amount Formula and Figures Used in That Formula

A threshold formula was developed as a means to implement criterion four for several reasons. It expedites the eligibility process by permitting a determination to be made without an individualized evaluation of the personal medical expenses of every recipient who is being evaluated for special SSI eligibility. Also, in our view, it most closely approaches the Congressional intent in applying this

criterion (as reflected in the House of Representatives Conference Report No. 96-944, page 50). This report makes clear that Congress intended that generally available State-by-State information be used in establishing reasonable income limits to carry out criterion four. Title XIX agencies are the primary sources of this information.

Computations for the Medicaid figures were based on the most appropriate data available for use in light of the limited time we had to implement the program (which did not permit us to obtain additional figures on a State-by-State basis). We plan to use updated data when it becomes available.

Continuing Eligibility Under the Special Status Provision

Eligibility for the special SSI eligibility status will be reevaluated at least annually. The verification procedures for initial eligibility will be applied in these reevaluations.

Federal and State Responsibilities—Federal Responsibility

(1) If a blind or disabled individual is no longer eligible for a regular SSI benefit, a special SSI cash benefit, or a State supplementary payment (see 20 CFR 416.2001), SSA will automatically evaluate the person for the special SSI eligibility status. Until SSA makes this determination, eligibility for Medicaid on the basis of SSI status will continue as though the person were receiving SSI benefits. Federal financial participation will be available to States for the costs of otherwise reimbursable Medicaid provided to an individual during the time it takes SSA to make the special SSI eligibility status determination, since the individual will be presumed to meet the requirements of this special status until it is determined otherwise. Even if it is later determined that the individual was ineligible for the special eligibility status, Medicaid provided to the individual during the period of presumed eligibility would be proper State expenditures and thus qualify for Federal matching funds. SSA will notify the State Medicaid agencies via the State Data Exchange (SDX) system both when special eligibility status is under evaluation and when a special eligibility status determination has been made.

(2) The Health Care Financing Administration (HCFA) will be responsible for making available to SSA information concerning the initial and updated threshold amount figures for Medicaid that will be used under criterion four.

State Responsibility

(1) State Medicaid agencies, upon request, will be responsible for supplying SSA with an individual's client profile of medical services (services and dates received, provider and amount paid) if they have automated systems which are currently programmed to produce such data.

(2) When SSA informs State Medicaid agencies of an individual's pending special SSI eligibility status, the Medicaid agencies will be expected to obtain up-to-date third party liability (TPL) information from the individual, his or her employer(s) or other available sources (See TPL requirements under 42 CFR Part 433, Subpart D). This is necessary for purposes of claims payment since it is likely that an individual may have obtained health insurance through recent employment, while the State's last TPL inquiry may have been made when the person first became eligible for SSI benefits.

(3) For purposes of determining Medicaid eligibility, States must consider an individual who is being evaluated for or has been granted the special SSI eligibility status as a blind or disabled person receiving SSI benefits.

Some States have elected the option under section 1902(f) of the Act of applying Medicaid eligibility requirements for aged, blind or disabled individuals that are more restrictive than those used under SSI. Those States must allow all blind and disabled individuals who have the special SSI eligibility status the same opportunity to establish Medicaid eligibility under the State's more restrictive criteria, as those actually receiving SSI.

Amendments to Titles 42 and 45

In order to implement the provisions of sections 201(a) and (b) of Pub. L. 96-265 that applied to title XIX (Medicaid) of the Social Security Act, we made changes to 42 CFR 435.3, 435.4 and 435.120. On September 30, 1981, the Health Care Financing Administration, in order to implement sections 2171 and 2172 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) issued interim final rules which further amended our changes to § 435.120 (see 46 FR 47985). Therefore, our final regulations do not include this section of our interim rules. Further, since we made no changes in sections 435.3 and 435.4 as a result of the comments that we received we are not reprinting those sections as a part of these final rules.

Also, our final regulations do not include the changes that were made by

out interim rules in 45 CFR 1396.1, 1396.56, and 1396.60, the regulations that applied to the title XX social services program. On October 1, 1981, when the Department of Health and Human Services published its interim final rules for the block grants program, it removed Part 1396 (see 46 FR 48598). Therefore, the changes we made in 45 CFR Part 1396 are no longer applicable.

Regulatory Procedures

Executive Order 12291: These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act: We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations affect only a limited number of individuals.

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting requirements included in these regulations have been approved by OMB and assigned OMB approval #0960-0267.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; and No. 13.807, Supplemental Security Income Program).

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public Assistance Programs, Supplemental Security Income

Dated: December 24, 1981.

John A. Svahn,
Commissioner of Social Security.

Approved: March 23, 1982.

Richard S. Schweiker,
Secretary of Health and Human Services.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 416 reads as follows:

Authority: Sec. 1102, 1611, 1616, 1618, 1619, 1631 and 1634 of the Social Security Act as amended, Sec. 212 of Pub. L. 93-66, as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 1474, 1475, and 1478, 90 Stat. 2901, 87 Stat. 155, and 94 Stat. 445; 42 U.S.C. 1302, 1382e, 1382g, 1383, 1383c, 1382h and 1396.

2. Sections 416.260-416.269 are amended to read as follows:

Benefits for Persons with Disabling Impairments Who Perform SGA

Sec.

416.260 General.

Special SSI Cash Benefits

416.261 What are special SSI cash benefits and when are they payable.

416.262 Eligibility requirements for special SSI cash benefits.

416.263 No additional application needed.

416.264 When does the "special SSI eligibility status" apply.

416.265 Eligibility requirements for the special SSI eligibility status.

416.266 Continuation of SSI status for Medicaid.

How We Establish Your Special SSI Eligibility Status

416.267 General.

416.268 What is done to determine if you must have Medicaid in order to work.

416.269 What is done to determine whether your earnings are too low to provide comparable benefits and services you would receive in the absence of those earnings.

Benefits for Persons with Disabling Impairments Who Perform SGA

§ 416.260 General.

These regulations describe the rules for determining eligibility for special SSI cash benefits and for special SSI eligibility status for a person who works despite a disabling impairment. These benefits and this status are available for a 3-year period beginning January 1, 1981 and ending December 31, 1983. Under these rules a person who works despite a disabling impairment may qualify for special SSI cash benefits as well as for Medicaid and, until October 1, 1981, title XX social services when his or her earnings exceed the established SGA limits described in § 416.974(b). Also, for purposes of determining eligibility or continuing eligibility for Medicaid and, until October 1, 1981, title XX social services, a blind or medically impaired person (no longer eligible for SSI benefits) who, except for earnings, would otherwise be eligible for SSI benefits may be eligible for a special SSI eligibility status under which he or she is considered a blind or disabled individual receiving SSI benefits. We explain the rules for eligibility for special SSI cash benefits in §§ 416.261-416.262. We explain the rules for acquiring the special SSI eligibility status in §§ 416.264-416.269.

Special SSI Cash Benefits

§ 416.261 What are special SSI cash benefits and when are they payable.

Special SSI cash benefits are benefits that we may pay you for months during January 1, 1981 through December 31, 1983, if you are not eligible for regular

SSI benefits because you demonstrate the ability to engage in SGA. You must meet the eligibility requirements in § 416.262 in order to receive special SSI cash benefits. Special SSI cash benefits are not payable for any month in which your countable income exceeds the limits established for the SSI program (see Subpart K of this part). If you are eligible for special SSI cash benefits, we consider you to be a disabled individual receiving SSI benefits for purposes of eligibility for Medicaid. We compute the amount of special SSI cash benefits according to the rules in Subpart D of this part. If your State makes supplementary payments which we administer under a Federal-State agreement, and if your State elects to supplement the special SSI cash benefits, the rules in Subpart T of this part will apply to these payments.

§ 416.262 Eligibility requirements for special SSI cash benefits.

You are eligible for special SSI cash benefits if you meet the following requirements—

(a) In the month before the month for which we are determining your eligibility for special SSI cash benefits, you were eligible for regular SSI benefits, special SSI cash benefits, or State supplementary payments (See § 416.2001);

(b) You are not eligible for a regular SSI benefit in the month for which we are making the determination because you demonstrate the ability to perform SGA;

(c) You continue to have a disabling impairment; and

(d) You continue to meet all the nondisability requirements for eligibility for SSI benefits (see subpart B).

We will follow the rules in this subpart in determining your eligibility for special SSI cash benefits.

§ 416.263 No additional application needed.

We do not require you to apply for special cash benefits nor is it necessary for you to apply to have the special SSI eligibility status determined. We will make these determinations automatically.

§ 416.264 When does the "special SSI eligibility status" apply.

The special SSI eligibility status applies only for purposes of establishing or maintaining your eligibility for Medicaid. For these purposes we continue to "consider you to be a blind or disabled individual receiving benefits" even though you are in fact no longer receiving SSI benefits." You must meet the eligibility requirements in

§ 416.265 in order to qualify for the special SSI eligibility status.

§ 416.265 Eligibility requirements for the special SSI eligibility status.

In order to be eligible for the special SSI eligibility status you must be under age 65 and, in the month before the first month for which we are making the special status determination, you must have been eligible to receive a regular SSI benefit, a special SSI cash benefit, or a State supplementary payment (see § 416.2001). Also, we must establish that—

(a) You are blind or you continue to have a disabling impairment;

(b) Except for your earnings, you continue to meet all the non-disability requirements for eligibility for SSI benefits (see Subpart B);

(c) The termination of your eligibility for Medicaid would seriously inhibit your ability to continue working (see § 416.268); and

(d) Your earnings are not sufficient to allow you to provide yourself with a reasonable equivalent of the benefits (SSI benefits, State supplementary payments and Medicaid which would be available to you if you did not have those earnings (see § 416.269).

§ 416.266 Continuation of SSI status for Medicaid

If we stop your benefits because of your earnings and you are potentially eligible for the special SSI eligibility status you will continue to be considered an SSI recipient for purposes of eligibility for Medicaid during the time it takes us to determine whether the special eligibility status applies to you.

How We Establish Your Special SSI Eligibility Status

§ 416.267 General.

We determine whether the special SSI eligibility status applies to you by verifying that you continue to be blind or have a disabling impairment by applying the rules in Subpart I of this part, and by following the rules in this subpart to determine whether you meet the requirements in § 416.265(b). If you do not meet these requirements we determine that the special eligibility status does not apply. If you meet these requirements, then we apply special rules to determine if you meet the requirements of § 416.265 (c) and (d). If for the period being evaluated, you meet all of the requirements in § 416.265 we determine that the special status applies to you.

§ 416.268 What is done to determine if you must have Medicaid in order to work.

(a) *What we establish.* To determine that you need Medicaid in order to continue to work we must establish either:

(1) that you are currently using or have used Medicaid during the period which began 12 months before our first contact with you to discuss this use; or

(2) where there was no past use, that you expect to use these services within the next 12 months.

(b) *Statement about use of services.* We will ask you for a signed statement which:

(1) describes the services you received under Medicaid from each of the providers of these services in the present month and in the past 12 months including:

(i) the name and address of the provider,

(ii) the type of treatment received,

(iii) the beginning and ending dates of the treatment,

(iv) the frequency of the visits; and

(2) identifies the types of services that you expect to receive in the next 12 months.

(c) *Verification of services.* We then verify, as necessary, what you tell us in your statement about past services through the agency administering the Medicaid program in your State or from providers of the services. If you have not used Medicaid in the past 12 months, we accept your statement (unless we have evidence to the contrary) concerning your expected use of Medicaid as the verification we need to establish that you need these services in order to work.

(Reporting requirements contained in § 416.268 have been approved by OMB under OMB #0960.0267.)

§ 416.269 What is done to determine whether your earnings are too low to provide comparable benefits and services you would receive in the absence of those earnings.

We must determine whether your earnings are too low to provide you with benefits and services comparable to the benefits and services you would receive if you did not have those earnings (see § 416.265(d)). In determining whether you meet this requirement, we compare your anticipated gross earnings, or a combination of anticipated and actual earnings (as appropriate) for the 12-month period beginning with the calendar quarter for which your special eligibility status is being determined to a threshold amount for your State of residence. This threshold amount consists of the sum for a 12-month period of two items, as follows:

(a) The amount of gross earnings after the exclusions in § 416.1112(c) (3) and (4) which reduces to zero the Federal SSI benefit and State supplementary payment for an individual with no other income living in his or her own household in the State where you reside. This amount will vary from State to State depending on the amount of the State supplementary payment; and

(b) The average expenditures for Medicaid benefits for disabled SSI cash recipients in your State of residence.

You meet the requirements in § 416.265(d) if the comparison shows that your gross earnings are equal to or less than the applicable threshold amount for your State.

If our comparison shows that your gross earnings exceed the applicable threshold amount for your State we will establish (and use in a second comparison) the amount of the actual expenditures for Medicaid services which you received during the appropriate 12-month period. If you have already completed the 12-month period for which we are determining your eligibility we will consider only the expenditures which apply to that period. In establishing the actual expenditures, we use both the information you provide in the signed statement required in § 416.268 and that which we obtain from the appropriate agencies and providers.

3. Sections 416.1332, 416.1402, 416.2001, and 416.2112, as published on January 22, 1981 at 46 FR 6903, are being reprinted below for reader convenience.

§ 416.1332 Termination of benefit for disabled individual: Exception.

Special SSI cash benefits (see § 416.261) will be payable in the period January 1, 1981 through December 31, 1983 if you meet eligibility requirements in § 416.262. These requirements apply if you, as a disabled recipient, are no longer eligible for regular SSI benefits because you demonstrate that you are able to engage in SGA.

§ 416.1402 Administrative actions that are initial determinations.

(f) Imposing penalties for failing to report important information;

(g) Your drug addiction or alcoholism;

(h) Whether you are eligible for special SSI cash benefits under § 416.262; and

(i) Whether you are eligible for special SSI eligibility status under § 416.265.

§ 416.2001 State supplementary payments; general.

(d) *Supplementary payments for recipients of special SSI cash benefits.* A State which makes supplementary payments (regardless of whether they are mandatory or optional and whether the payments are federally administered), has the option of making those payments to individuals who receive cash benefits under section 1619(a) of the Act (see § 416.261), or who would be eligible to receive cash benefits except for their income.

§ 416.2112 Limitations as to individuals covered by agreement to determine eligibility for medical assistance.

Determinations of Medicaid eligibility under an agreement are limited to individuals (a) who have been determined to be eligible individuals under title XVI of the Act; or (b) who are receiving a State supplementary payment which is federally administered, or both (see § 416.2003 and § 416.2052 in connection with federally administered State supplementary payments); or (c) who are eligible to receive benefits under section 1619(a) of the Act or who we consider to be blind or disabled individuals receiving supplemental security income benefits as provided in section 1619(b) of the Act (see § 416.260).

[FR Doc. 82-9735 Filed 4-8-82; 8:45 am]

BILLING CODE 4110-07-M

Food and Drug Administration

21 CFR Part 452

[Docket No. 82N-0047]

Antibiotic Drugs; Erythromycin Enteric-Coated Tablets

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of a new strength of erythromycin enteric-coated tablet. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective April 9, 1982; comments, notice of participation, and request for hearing by May 10, 1982; data, information, and analyses to justify a hearing by June 8, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new strength (500 milligrams) of erythromycin enteric-coated tablet. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 452 (21 CFR Part 452) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 452

Antibiotics, macrolide.

PART 452—MACROLIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 452 is amended in § 452.110b by revising the second sentence in paragraph (a)(1) to read as follows:

§ 452.110b Erythromycin enteric-coated tablets.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* * * * Each tablet contains 100, 250, 333, or 500 milligrams of erythromycin. * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending this regulation's effective date. Because this regulation is not controversial and because when effective it provides

notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective April 9, 1982. However, interested persons may, on or before May 10, 1982, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before May 10, 1982, a written notice of participation and request for hearing, and (2) on or before June 8, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall

become effective April 9, 1982.

(Secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g)))

Dated: April 2, 1982.

James C. Morrison,
Acting Associate Director for Regulatory
Affairs.

[FR Doc. 82-9722 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510, 520, and 522

New Animal Drugs; Sponsors of Approved NADA's

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of several supplemental new animal drug applications (NADA's) filed by American Hoechst Corp., providing for revised sponsor names.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT:

John R. Markus, Bureau of Veterinary Medicine (HFV-104), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION:

American Hoechst Corp., Animal Health Division, Route 202-206 North, Somerville, NJ 08876, filed several supplemental NADA's providing for revising the sponsor name from American Hoechst Corp., Agricultural Division, and Hoechst-Roussel Pharmaceuticals, Inc., to American Hoechst Corp., Animal Health Division.

Supplemental NADA's for the change of sponsor are approved and the regulations are amended to reflect the approvals.

This action concerns the change of sponsor names and addresses, and does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (see 42 FR 64367; December 23, 1977), this is a Category I change which does not require reevaluation of the safety and effectiveness data in the parent applications.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR

Part 510

Administrative practice and procedure, Animal drugs, Labeling Reporting requirements.

Part 520

Animal drugs, oral use.

Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510, 520, and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by revising the entry "American Hoechst Corp." and by removing the entry "Hoechst-Roussel Pharmaceuticals, Inc.," and in paragraph (c)(2) by removing the entry "000039," and by revising the entry "012799" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
American Hoechst Corp. Animal Health Division, Route 202-206 North, Somerville, NJ 08876	012799

(2) * * *

Drug labeler code	Firm name and address
012799	American Hoechst Corp., Animal Health Division, Route 202-206 North, Somerville, NJ 08876

PART 520—ORAL FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Parts 520 as follows:

§ 520.905a [Amended]

a. In § 520.905a *Fenbendazole suspension* in paragraph (c) by removing "000039" and inserting in its place "012799."

§ 520.905b [Amended]

b. In § 520.905b *Fenbendazole granules* in paragraph (b) by removing "000039" and inserting in its place "012799."

§ 520.905c [Amended]

c. In § 520.905c *Fenbendazole paste* in paragraph (b) by removing "000039" and inserting in its place "012799."

§ 520.1010a [Amended]

d. In § 520.1010a *Furosemide tablets or boluses* in paragraph (b) by removing "000039" and inserting in its place "012799."

§ 520.1010b [Amended]

e. In § 520.1010b *Furosemide powder* in paragraph (b) by removing "000039" and inserting in its place "012799."

§ 520.1010c [Amended]

f. In § 520.1010c *Furosemide syrup* in paragraph (b) by removing "000039" and inserting in its place "012799."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. In Part 522 as follows:

§ 522.900 [Amended]

a. In § 522.900 *Euthanasia solution* in paragraph (a)(2) by removing "000039" and inserting in its place "012799."

§ 522.1010 [Amended]

b. In § 522.1010 *Furosemide injection* in paragraph (b) by removing "000039" and inserting in its place "012799."

Effective date. This regulation is effective April 9, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 31, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-9468 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520**Oral Dosage Form New Animal Drugs Not Subject to Certification; Roxarsone Tablets**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove an incorrect statement that the National Academy of Sciences/National Research Council (NAS/NRC) reviewed and found effective the use of Salsbury Laboratories' roxarsone tablets in the drinking water of chickens and turkeys as a coccidiostat.

EFFECTIVE DATE: August 14, 1981.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 14, 1981 (46 FR 41040), FDA published approval of Salsbury's supplemental NADA 5-414 which provided for use of roxarsone tablets in the drinking water of chickens and turkeys for increased rate of weight gain, improved feed efficiency, and improved pigmentation, and in the feed of chickens for prevention of coccidiosis. In codifying the approval, the regulation incorrectly stated that all claims were NAS/NRC reviewed and found effective. However, the preamble correctly stated that the coccidiosis claim was based, among other things, on additional effectiveness data from tests conducted by the sponsor. Therefore, the agency cannot approve NAS/NRC NADA's submitted by other sponsors for the coccidiosis claims. The regulation is amended to state that only weight gain, feed efficiency, and pigmentation claims are NAS/NRC reviewed and found effective.

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of

Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.2088 by revising the first sentence in paragraph (a)(4) to read as follows:

§ 520.2088 Roxarsone tablets.

(a) * * *

(4) *NAS/NRC status.* The weight gain, feed efficiency, and pigmentation claims are NAS/NRC reviewed and found effective. * * *

* * * * *

Effective date. August 14, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: April 1, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

(FR Doc. 82-0467 Filed 4-8-82; 8:45 am)

BILLING CODE 4160-01-M

21 CFR Part 522**Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification: Tiletamine Hydrochloride and Zolazepam Hydrochloride for Injection**AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Parke-Davis, Division of Warner-Lambert Co., providing for the safe and effective use of tiletamine hydrochloride and zolazepam hydrochloride for injection for dogs and cats as an anesthetic agent.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950, filed an NADA (106-111) providing for safe and effective intramuscular use of tiletamine hydrochloride and zolazepam hydrochloride for injection for restraint or for anesthesia combined with muscle relaxation in cats and dogs for restraint and minor procedures of short duration requiring analgesia. This approval is supported by data establishing safe and effective use of the drug. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of

safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(i), (ii)(a), (ii)(c), and (ii)(e)) may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 522

Animal drugs, injectable; Food and Drug Administration.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.2470 to read as follows:

§ 522.2470 Tiletamine hydrochloride and zolazepam hydrochloride for injection.

(a) *Specifications.* Tiletamine hydrochloride and zolazepam hydrochloride for injection when reconstituted with sterile distilled water provides tiletamine hydrochloride and zolazepam hydrochloride equivalent to 50 milligrams of tiletamine base and 50 milligrams of zolazepam base per milliliter of solution.

(b) *Sponsor.* See No. 000071 in § 510.600(c) of this chapter.

(c) *Conditions of use—(1) Indications for use.* It is used for restraint or for anesthesia combined with muscle relaxation in cats and in dogs for restraint and minor procedures of short

duration (30 minutes) requiring mild to moderate analgesia.

(2) *Amount.* Expressed as milligrams of the drug combination:

(i) In healthy dogs: An initial intramuscular dosage of 3 to 4.5 milligrams per pound of body weight for diagnostic purposes; 4.5 to 6 milligrams per pound of body weight for minor procedures of short duration such as repair of lacerations and wounds, castrations, and other procedures requiring mild to moderate analgesia. Supplemental doses when required should be less than the initial dose and the total dose given should not exceed 12 milligrams per pound of body weight. The maximum total safe dose is 13.6 milligrams per pound of body weight.

(ii) In healthy cats: An initial intramuscular dosage of 4.4 to 5.4 milligrams per pound of body weight is recommended for such procedures as dentistry, treatment of abscesses, foreign body removal, and related types of surgery; 4.8 to 5.7 milligrams per pound of body weight for minor procedures requiring mild to moderate analgesia, such as repair of lacerations, castrations, and other procedures of short duration. Initial dosages of 6.5 to 7.2 milligrams per pound of body weight are recommended for ovariohysterectomy and onychectomy. When supplemental doses are required, such individual supplemental doses should be given in increments that are less than the initial dose and the total dose given (initial dose plus supplemental doses) should not exceed the maximum allowable safe dose of 32.7 milligrams per pound of body weight.

(3) *Limitations.* Discard unused reconstituted solution after 48 hours. Not for use in dogs and cats with pancreatic disease, or with severe cardiac or pulmonary dysfunction. Not for use in pregnant animals. Not for use in cats suffering with renal insufficiency. The dosage should be reduced in geriatric dogs and cats. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation shall become effective April 9, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 26, 1982.

Terence Harvey,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-0465 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 640

[Docket No. 79N-0352]

Cryoprecipitated Antihemophilic Factor (Human)

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to remove the requirement that a minimum volume of at least 200 milliliters of original plasma be used for the processing of Cryoprecipitated Antihemophilic Factor (Human). This action will promote the maximum use of blood by facilitating the preparation of both Platelet Concentrate (Human) and Cryoprecipitated Antihemophilic Factor (Human) from a single unit of plasma.

EFFECTIVE DATE: May 10, 1982.

FOR FURTHER INFORMATION CONTACT:

T. Rada Proehl, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 29, 1980 (45 FR 28358), FDA proposed to remove the requirement that no less than 200 milliliters of cell-free plasma be separated from red blood cells by centrifugation for the processing of Cryoprecipitated Antihemophilic Factor (Human). The 200-milliliter volume requirement was intended to ensure that there would be a sufficient volume of plasma to yield an adequate amount of Cryoprecipitated Antihemophilic Factor (Human) for clinical use. Since the promulgation of this volume requirement, practical experience has demonstrated that an acceptable final product, averaging no less than 80 units of antihemophilic factor per final container, can be manufactured from less than 200 milliliters of plasma with careful production techniques. This action should provide a greater availability of plasma to be used in the preparation of Cryoprecipitated Antihemophilic Factor (Human) in meeting a demand for the product in the treatment of hemophiliacs. In addition, as stated in the preamble of the proposal, the agency believes that blood banks should be permitted to prepare as many components as possible from each unit of blood so as to maximize the use of this vital national resource.

Interested persons were given until June 30, 1980 to file written comments. FDA received 4 letters of comment on the proposal. Three letters supported the proposal. One letter contained a number

of comments. The comments and the agency's responses follow:

1. One comment suggested that if the current potency requirement of 80 units antihemophilic factor is easily obtainable by current production techniques as indicated in the preamble, then perhaps the existing potency requirement prescribed in § 640.54(b)(1) (21 CFR 640.54(b)(1)) should be higher than the current 80 units antihemophilic factor per final container.

The agency disagrees with this comment. A potency level of 80 units antihemophilic factor prepared from a single unit of whole blood has become an accepted standard in blood bank practice and in calculating the therapeutic dose needed to affect hemostasis in the patient. In addition, while a final product averaging no less than 80 units antihemophilic factor is easily obtainable by current production techniques, as indicated in the preamble and by the comment, the precision of processing required to ensure a higher average potency could unnecessarily affect adversely the availability and cost of this product.

2. One comment suggested that the existing minimum 200 milliliters of plasma volume prescribed in § 640.54(a) should be increased rather than removed as proposed. Such an increase would decrease the number of donors contributing original plasma for the clinically effective antihemophilic factor dose, and given the prevalence of non-A, non-B hepatitis, decrease concomitantly the risks of possible exposure of patients to hepatitis.

The agency rejects this comment. Severe hemophiliacs have frequent bleeding episodes and must be able to obtain treatment at any time a bleeding episode occurs. The only effective treatment consists of replacement of antihemophilic factor with plasma derivatives, including Cryoprecipitated Antihemophilic Factor (Human), all of which carry a risk of hepatitis. Consequently, all severe hemophiliacs are exposed to the hepatitis virus and thus to the risk of contracting hepatitis. Once a hemophiliac has been exposed to the hepatitis virus, a decrease in the number of subsequent donor exposures to hepatitis would not diminish the hemophiliac's risk of contracting hepatitis. In addition to creating no additional hepatitis risk for severe hemophiliacs, the removal of the 200-milliliter plasma volume will increase the quantity of Cryoprecipitated Antihemophilic Factor (Human) available to these patients, who, as previously stated, must obtain treatment whenever a bleeding episode occurs. A

greater availability of the product will be a significant benefit for these patients.

Unlike the severe hemophiliac, the moderate hemophiliac needs infusions only rarely. The moderate hemophiliac thus would not be exposed as often to the risk of contracting hepatitis. A moderate hemophiliac needing infusion receives a specific number of bags of Cryoprecipitated Antihemophilic Factor (Human). Each bag of Cryoprecipitated Antihemophilic Factor (Human) is obtained from a single donor and is required to contain an average of no less than 80 units of antihemophilic factor per final container. Consequently, the number of bags infused into a hemophiliac is directly related to the possible number of donor exposures to hepatitis. The removal of the 200-milliliter plasma volume limit should not increase the number of bags of antihemophilic factor required for a moderate hemophiliac, because an average of no less than 80 units of antihemophilic factor per final container continues to be the requirement for potency of the product in § 640.54(b)(1). Therefore, the number of donors to which the moderate hemophiliac would be exposed as a result of infusion should not increase. Accordingly, the moderate hemophiliac's risk of contracting hepatitis should not be increased as a result of removing the 200-milliliter plasma volume limit.

3. One comment suggested that if the existing required 200 milliliters minimum plasma volume is deleted as proposed, then the requirement in § 640.56(a) to conduct quality control tests for potency of antihemophilic factor each month on at least 4 representative containers of Cryoprecipitated Antihemophilic Factor (Human) is subject to abuse by a producer who could simply test only those units of Cryoprecipitated Antihemophilic Factor (Human) prepared from larger amounts of plasma and meet the requirement to show an average of no less than 80 units of antihemophilic factor per final container. The comment suggested that the regulations be changed to require that the quality control test be conducted on units of the product prepared from the smallest volume of original plasma rather than on representative units of the product.

The agency disagrees with this comment. The agency has no basis for believing that manufacturers would circumvent the requirements of the regulation by developing statistical sampling designs to exclude products prepared from a small volume of plasma as suggested by the comment. The

existing requirement, that representative containers be tested, is intended to reflect all the variables involved that may affect potency. These variables include age of the blood, blood type of the donor, and production techniques as well as the volume of original plasma. The agency believes that this requirement is adequate to ensure the potency of the product. The comment's suggestion to require a quality control test on units of product prepared from the smallest volumes is not representative of all the variables.

List of Subjects in 21 CFR Part 640

Blood.

The economic impact of this rule has been assessed in accordance with Executive Order 12291. The agency has determined that this rule is not a major rule as defined by that Order. Specifically, this rule removing the minimum volume requirement of original plasma to be used for the processing of Cryoprecipitated Antihemophilic Factor (Human) will have a beneficial impact on the economy and on the availability of the product, resulting in no major increase in costs for manufacturers, physicians, or consumers. A copy of the assessment supporting this determination is on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 640 is amended in § 640.54 by revising paragraph (a)(1) to read as follows:

§ 640.54 Processing.

(a) *Processing the plasma.* (1) The plasma shall be separated from the red blood cells by centrifugation to obtain essentially cell-free plasma.

Effective date. This regulation becomes effective on May 10, 1982.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: March 19, 1982.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9466 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5c

[T. D. 7816]

Temporary Income Tax Regulations Under the Economic Recovery Tax Act of 1981; Special Rules for Change of Annual Accounting Period

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations providing special rules for a change of annual accounting period. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981 (ERTA), which reduced the tax rate tables applicable to individuals. These regulations provide special rules that will enable individuals to change their taxable years in order to receive the maximum benefit from the reduction in tax rates. The regulations affect individuals whose annual accounting period is a fiscal year and provide them with the guidance needed to change their annual accounting period to a calendar year.

EFFECTIVE DATE: These regulations apply to requests for a change of accounting period that involves a short period ending on December 31, 1981 or December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Gregory A. Roth of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, (202) 566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document amends the Temporary Income Tax Regulations under the Economic Recovery Tax Act of 1981 (26 CFR Part 5c) by providing special rules under section 442 of the Internal Revenue Code of 1954. These amendments are proposed because of the amendment of sections 1 and 21 of the Internal Revenue Code by section 101 of the Economic Recovery Tax Act of 1981 (95 Stat. 172). The amendments

are issued under the authority of section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Section 101(a) of ERTA provides a series of reductions in individual income tax rates to take effect for taxable years beginning in 1982, 1983, and 1984. For taxable years beginning after 1984, section 104 of ERTA provides for adjustments to prevent tax increases that are attributable to inflation.

Under section 21(a) of the Code, (relating to the effect of tax rate changes), if a taxpayer's taxable year includes the effective date of a tax rate change (January 1 in the case of the changes made by ERTA), the tax for the year is tentatively determined under both the old and new rates. The actual tax for the year is a pro rata portion of the tax determined under the old rates plus a pro rata portion of the tax determined under the new rates. The portion of the tax taken into account under the old and new rates is based on the number of days in the taxable year before and after the effective date. However, section 101(d)(3) of ERTA amended section 21 of the Code to provide that this rule does not apply to the individual tax rate reductions of ERTA. Thus, a fiscal year taxpayer will not benefit from these rate reductions during the period from January 1 to the end of the fiscal year.

Change of Taxable Year

A fiscal year taxpayer may obtain the full benefit of the individual income tax rate reductions of ERTA by changing to a calendar year. However, the regulations under section 442 (relating to change of annual accounting period) require a taxpayer to establish a substantial business purpose for making the change. These regulations provide that in the case of a taxpayer changing to obtain the full benefit of the ERTA tax rate reductions, the substantial business purpose requirement does not apply.

Except in the specific cases described in these regulations, the current rules and procedures for change of accounting period (including the consideration given to distortion of income due to deferment of income) will continue to apply. The regulations also permit all individuals to use the expeditious procedure of Rev. Proc. 82-25, 1982-15 I.R.B., to obtain the Commissioner's approval of the change. Approval will not be granted unless the taxpayer and the Commissioner agree to the terms, conditions, and adjustments under which the change will be effected. In addition, the time for filing the application for change is extended. Finally, the policy that a change of

accounting period is not permitted within 10 taxable years after a previous change except in unusual circumstances does not apply to changes of accounting period permitted under these regulations. However, the regulations do provide that a taxpayer is not permitted to change back to a fiscal year within 5 calendar years after the change to a calendar year.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. For the reasons set forth below no general notice of proposed rulemaking is required by 5 U.S.C. 553(b). Accordingly, no Regulatory Flexibility Analysis is required by Chapter 6 of Title 5, United States Code.

Drafting Information

The principal author of this regulation is Gregory A. Roth of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 5c

Income taxes, Accounting, Economic Recovery Tax Act of 1981.

Amendments to the regulations

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Accordingly, the following amendments are made to 26 CFR Part 5c:

Paragraph 1. The following § 5c.442-1 is added at the appropriate place:

§ 5c.442-1 Temporary regulations relating to change of annual accounting period.

(a) *Applicability.* The rules of paragraph (b) of this section apply to a request for a change of annual accounting period if—

(1) The taxpayer requesting the change of annual accounting period is an individual;

(2) The purpose for the change of annual accounting period is to benefit as of the first day of a calendar year from changes in the individual income tax rates that do not apply until the first day of the taxpayer's taxable year because of section 21(d) (relating to

inapplicability of section 21 to changes made by the Economic Recovery Tax Act of 1981).

(3) The requested change of annual accounting period is from a fiscal year to a calendar year;

(4) In the case of a principal partner in a partnership formed after April 1, 1954, whose principal partners all change to a calendar year, the partnership changes to a calendar year;

(5) In the case of a shareholder in an electing small business corporation whose shareholders all change to a calendar year, the small business corporation changes to a calendar year; and

(6) The short period involved in the change ends on December 31, 1981 or December 31, 1982.

(b) *Special rules.* In the case of a request for a change of annual accounting period described in paragraph (a) of this section, the following special rules apply:

(1) The substantial business purpose requirement contained in § 1.442-1(b) (relating to change of annual accounting period) does not apply.

(2) If the short period involved in the change ends on December 31, 1981, the application for change of annual accounting period may be filed at any time on or before June 15, 1982.

(3) The taxpayer may obtain approval of a change of annual accounting period in the manner set forth in Rev. Proc. 82-25, 1982-15 I.R.B.

(4) The taxpayer shall disclose on the application for change of accounting period any partnership formed after April 1, 1954 in which the taxpayer is a principal partner and any electing small business corporation in which the taxpayer is a shareholder.

(5) Approval of the change of annual accounting period will be granted without regard to the number of years that have elapsed since the taxpayer's previous change of annual accounting period.

(6) No subsequent change of annual accounting period will be approved if the short period involved in the subsequent change would end fewer than 5 calendar years after the last day of the short period involved in the change of accounting period described in paragraph (a) of this section. If the short period involved in the subsequent change would end more than 5 calendar years after the last day of the short period involved in the change of accounting period described in paragraph (a) of this section, the Commissioner will determine whether to approve such change—

(i) Without regard to the change of annual accounting period described in paragraph (a) of this section; and

(ii) In the case of a change to the fiscal year used by the taxpayer before the change of annual accounting period described in paragraph (a) of this section, without regard to the number of years that have elapsed since the taxpayer previously adopted such fiscal year.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impractical to issue it under the notice and comment procedure or subject to the effective date limitation of section 553 (b) and (d) of Title 5 of the United States Code.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 29, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-9649 Filed 4-6-82; 3:22 pm]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

41 CFR Parts 8-1 and 8-3

General Policies and Procurement by Negotiation

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This revision adds provisions regarding the use of renewal options by specifying that OMB Circular A-76 cost comparisons will use two one-year renewal options, and that contracts with options which are subject to the Service Contract Act will use the price adjustment clause for service contracts. The revision also specifies that use escalation provisions (except for the price adjustment clause for service contracts) will require the prior approval of the Assistant Deputy Administrator for Procurement and Supply.

EFFECTIVE DATE: This rule is effective April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 389-2334.

SUPPLEMENTARY INFORMATION: OMB Circular A-76 recommends the use of prepriced option years in cost-comparison solicitations. Use or

prepriced options are intended to guard against contractor buy-ins and to allow a more realistic basis for comparing relative costs. The addition of 41 CFR 8-1.15 generally requires the use of two one-year renewal options for A-76 cost comparisons. The provision also specified the use of the price adjustment clause for contracts subject to the Service Contract Act which use renewal options. This clause will ensure that the contractor does not bid a contingency to provide for possible increases in the Service Contract Act wage determinations.

In order to provide oversight of the use of escalation provisions, it is specified that such use will require the prior approval of the Assistant Deputy Administrator for Procurement and Supply, except for the price adjustment clause for service contracts.

The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of section 603 and section 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the Veterans Administration to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only implements existing rules and establishes internal procedures, the rulemaking process is considered unnecessary in this instance.

List of Subjects in 41 CFR Parts 8-1 and 8-3

Government procurement, Small business.

Approved: April 1, 1982.

Robert P. Nimmo,
Administrator.

41 CFR is amended as follows:

PART 8-1—GENERAL

1. New Subpart 8-1.15 is added including new § 8-1.1502 to read as follows:

Subpart 8-1.15 Options

§ 8-1.1502 Use of options.

(a) All solicitations developed pursuant to Office of Management and Budget Circular A-76 cost comparisons

will provide for two one-year renewal options as prescribed in the FPR, subpart 1-1.15. Requests to use less than or more than this prescribed contract period for A-76 cost comparisons will be forwarded to the Assistant Deputy Administrator for Procurement and Supply (90).

(b) Each contract awarded with renewal options and which is subject to the Service Contract Act will use the clause prescribed in FPR 1-12.904-3.

PART 8-3—PROCUREMENT BY NEGOTIATION

2. Section 8-3.403 is amended by revising paragraph (a) (2) and (3), and paragraph (b), and by redesignating old paragraphs (b) through (d) as paragraphs (c) through (e), so that the material reads as follows:

§ 8-3.403 Selection of contract type.

(a) Contracts for supplies or nonpersonal services awarded pursuant to Part 8-2 or this part shall be of the following types:

(2) Firm fixed price for one (1) year with options for succeeding years. (See § 8-1.15 and FPR 1-1.15.)

(3) Fixed price with an escalation clause. (See FPR 1-3.404-3.)

(b) Contracts of the type specified in paragraph (a)(3) of this section which include an escalation provision other than the price adjustment clause for service contracts (FPR 1-12.904-3) will require the prior approval of the Assistant Deputy Administrator for Procurement and Supply (90). The request for approval will clearly set forth the need for the provision.

(c) Contracts of the type specified in paragraph (a) (2) and (3) of this section will be entered into only when such contracts are clearly shown to be advantageous to the Veterans Administration. The contracting officer shall document the contract file to show the specific and compelling reasons for the selection of the particular type contract.

(d) Any contract involving direct obligation of appropriations and which extends beyond the appropriation of the year in which the contract period begins or which is for more than 1 fiscal year, shall contain provisions to the effect that:

(1) It is made for the period covered by the contract, subject to the availability of appropriations in the ensuing year(s), and

(2) No service will be performed by

the contractor after September 30 of each fiscal year unless and until specifically authorized by the contracting officer or representative.

(e) Architect-engineer contracts, construction contracts, or professional engineer contracts, financed by "no year appropriations" are not subject to the requirements of paragraph (d) of this section.

3. In § 8-3.450-1, the introductory line of paragraph (b)(1) is amended to read as follows:

§ 8-3.450-1 Letters of availability.

* * *

(b) *Policy.* (1) Unless specifically authorized by the Assistant Deputy Administrator for Procurement and Supply, letters of availability will not be utilized for the following reasons:

* * *

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 82-9737 Filed 4-8-82; 8:45 am]

BILLING CODE 8320-01-M

41 CFR Part 8-95

Loan Guaranty Program

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: Veterans Administration Procurement Regulations authorize Directors, VA Regional Offices, to purchase supplies and services for the repair of real property acquired through the Loan Guaranty Program up to \$4,000, without the approval of the Chief Benefits Director. Due to the substantial increase in the number of contract actions in excess of \$4,000, it is proposed that the dollar threshold be increased to \$5,000. This change revises Veterans Administration Procurement Regulations by increasing the dollar threshold above which contracts for property management of VA owned properties must be reviewed and approved by the Chief Benefits Director.

EFFECTIVE DATE: This rule is effective April 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Tim Ganous, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue NW., Washington, D.C. 20420, Telephone (202) 389-2334.

SUPPLEMENTARY INFORMATION: The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this final

rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of Section 603 and Section 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the Veterans Administration to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only affects internal procedures, the rulemaking process is considered unnecessary in this instance.

List of Subjects in 41 CFR Chapter 8-95

Education, government procurement, vocational rehabilitation.

Approved: April 1, 1982.

Robert P. Nimmo,
Administrator.

PART 8-95—LOAN GUARANTY AND EDUCATION AND REHABILITATION PROGRAMS

Part 8-95 of Chapter 8, Title 41, CFR is amended as follows:

In § 8-95.102, paragraphs (a), (b) and (c) are revised to read as follows:

§ 8-95.102 Authorization for repairs to properties.

(a) Except as provided in this subpart, Directors, VA Regional Offices, are authorized to purchase supplies and services for the repair to any Veterans Administration property acquired under chapter 37, title 38, United States Code, where the cost does not exceed \$5,000 on any single transaction.

(b) In those cases where the expenditure is known or estimated to exceed \$5,000, the request, together with the loan guaranty folder, will be forwarded to the Chief Benefits Director for approval.

(c) During the period when the Veterans Administration has assumed custody of the property from a holder and prior to its conveyance to the Veterans Administration pursuant to 38 CFR 36.43210, repairs are authorized not in excess of \$2,000 when appropriate to make the property ready for sale at an earlier date than would otherwise be possible if the repair program was delayed until such time as the Veterans Administration acquired absolute title.

* * *

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 82-9736 Filed 4-8-82; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 81, 83, and 87

Commission Organization, Practice and Procedure, Stations on Land in the Maritime Services, Services on Shipboard in the Maritime Services, and Aviation Services; Editorial Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action is to editorially update mailing addresses and references to forms, delete obsolete terms and dates, correct errors, and clarify certain emission definitions in our rules which affect the aviation and marine services. These amendments will make the affected rule sections accurate.

EFFECTIVE DATE: April 12, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Charles D. Fisher, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Order

Adopted: March 25, 1982.

Released: March 29, 1982.

In the matter of editorial amendment of Parts 0, 81, 83 and 87 of the Commission's Rules and Regulations which affect the Aviation and Marine services.

1. By this Order, it is intended to editorially update, correct, and clarify certain sections of Parts 0, 1, 81, 83 and 87 which affect the aviation and marine services. The affected sections are §§ 0.314(g), 1.741, 1.912 (c) and (d), 1.931, 81.131(g), 81.132(f), 81.203(a), 83.104, 83.105, 83.243 and 87.253 (a) and (c).

2. Authority for this action appears in Sections 4(i), and 303(r) of the Communications Act of 1934, as amended, and in Sections 0.231(d) of the Commission's Rules and Regulations. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on matter covered in this document contact Charles D. Fisher, (202) 632-7175.

4. In view of the above, it is ordered, That the rule amendments set forth in the attached Appendix are adopted effective April 12, 1982.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Edward J. Minkel,
Managing Director.

Appendix

Parts 0, 1, 81, 83 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

§ 0.314 [Amended]

In § 0.314, paragraph (g) is removed and designated reserved.

PART 1—PRACTICE AND PROCEDURE

§ 1.741 [Amended]

1. In § 1.741, reference to Part 85 is removed in lines 5 and 10.

2. In § 1.912, paragraphs (c) and (d) are revised to read as follows:

§ 1.912 Where applications are to be filed.

(c) Formal applications for ship station licenses for use of radiotelephone or radar transmitting apparatus or both, and applications for modification of such licenses shall be filed on FCC Form 506 and in accordance with the instructions on that form.

(d) All formal applications for Radio Control (R/C) or Citizens Band (CB) new, modified, or renewal station authorizations shall be submitted to the Commission's office, Gettysburg, Pennsylvania 17325. All formal applications for ship station licenses (FCC Forms 506 and 405-B) shall be submitted to the Commission's office, Box 1040, Gettysburg, Pennsylvania 17325. All formal applications for aircraft station licenses (FCC Forms 404 and 405-B) or for ground station authorization in the aviation service (FCC Form 406) shall be submitted to the Commission's office, Box 1030, Gettysburg, Pennsylvania 17325. Any special requests or applications for special temporary authority concerning a Radio Control (R/C) or Citizens Band (CB) station and all applications for General Mobile Radio Service station licenses shall be filed in accordance with paragraph (e) of this section.

§ 1.922 [Amended]

3. In § 1.922, reference to FCC Forms 501 and 502 is removed and the title of FCC Form 503 is revised to read: Application for Land Radio Station License in the Maritime Services.

§ 1.931 [Removed and reserved]

4. Section 1.931 is removed and designated reserved.

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

§ 81.131 [Amended]

1. In § 81.131(g) any reference to footnote 2 is removed and footnotes 1 and 2 are removed.

2. In § 81.132, paragraph (f) is revised to read as follows:

§ 81.132 Authorized classes of emission.

(f) For the purpose of this part, A3 emission is double sideband telephony; A3A emission is single sideband, reduced carrier; A3H is single sideband, full carrier; and A3J emission is single sideband, suppressed carrier.

§ 81.203 [Amended]

3. In § 81.203(a), any reference to footnote 1 is removed and footnote 1 is removed.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.104, paragraph (h)(1) is revised to read as follows:

§ 83.104 Operating controls.

(h)(1) Subject to the provisions of paragraph (h)(2) of this section, each ship station using telegraphy on frequencies within the band 405 kHz to 510 kHz must, with respect to the use of any transmitter capable of a plate input power in excess of 450 watts and completed in construction subsequent to January 1, 1952, be provided with an arrangement readily permitting the use of a plate input power for telegraphy which is not in excess of 200 watts. Each such transmitter shall be furnished with a durable nameplate with the month and year of its completion permanently inscribed thereon.

2. In § 83.105, paragraph (a) is revised to read as follows:

§ 83.105 Required channels for radiotelegraphy.

(a) Each ship station using telegraphy on frequencies within the band 405–510 kHz shall be capable of:

§ 83.243 [Amended]

PART 87—AVIATION SERVICES

§ 87.253 [Amended]

3. In § 87.253, the reference to footnote

1 listed in paragraphs (a)(1) and (c) is removed and footnote 1 is removed.

[FR Doc. 82-9636 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-631; RM-3908]

FM Broadcast Station in Camden, Alabama; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 272A to Camden, Alabama, in response to a petition filed by Harry A. Taylor. The assignment could provide Camden with a first local FM and second nighttime aural broadcast service.

EFFECTIVE DATE: June 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: March 26, 1982.

Released: April 5, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Camden, Alabama).

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 46352, published September 18, 1981, in response to a petition filed by Harry A. Taylor ("petitioner"), proposing the assignment of FM Channel 272A to Camden, Alabama, as that community's first FM assignment. Supporting comments were filed by petitioner in which he reaffirmed his intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Camden (population 2,406),¹ the seat of Wilcox County (population 14,755), is located in south central Alabama, approximately 100 kilometers (62 miles) southwest of Montgomery. It is currently served by full-time AM Station WCOX. Channel 272A could be assigned to Camden consistent with the minimum distance separation requirements of § 73.207 of the Rules.

3. In support of his proposal, petitioner submitted information with respect to

¹ Population figures are derived from the 1980 U.S. Census, Advance Reports.

Camden which is persuasive as to its need for a first FM channel assignment.

4. We believe that the public interest would be served by the assignment of Channel 272A to Camden, Alabama. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first FM and second nighttime aural broadcast service.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective June 4, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Camden, Alabama.....	272A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

List of Subjects in 47 CFR Part 73

Radio, Television.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-9630 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-629; RM-3900]

FM Broadcast Station in Downs, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 231 to Downs, Kansas, in response to a petition filed by Ernest McRae and Jerry T. Venable. The assignment could provide Downs with a first local aural broadcast service.

DATE: Effective June 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and order—Proceeding terminated

Adopted: March 29, 1982.

Released: April 5, 1982.

In the matter of Amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Downs, Kansas).

1. The Commission has under consideration the Notice of Proposed Rule Making herein, 46 FR 46353, published September 18, 1981, in response to a petition filed by Ernest McRae and Jerry T. Venable ("petitioners"), proposing the assignment of Class C Channel 231 to Downs, Kansas, as that community's first FM assignment.¹ Supporting comments were filed by petitioners in which they reaffirmed their intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Downs (population 1,324),² in Osborne County (population 5,959), is located approximately 224 kilometers (140 miles) northwest of Wichita, Kansas. It is currently devoid of local broadcast service. Channel 231 can be assigned to Downs in conformity with the requirements of Section 73.207 of the Commission's Rules, provided the transmitter site is located 2.3 miles northwest of the community to avoid short-spacing to Station KYEZ (Channel 229) in Salina, Kansas.

3. In its comments, petitioners incorporated by reference the information in the Notice which demonstrated the need for a first FM assignment to Downs, Kansas.

4. Although the usual practice is to assign a Class A channel to a community the size of Downs, petitioners assert that the proposed assignment would provide a first FM service to 19,021 persons in an area encompassing 7,621 square kilometers (2,977 square miles), and a second FM service to 8,621 persons within an area of 3,724 square kilometers (1,455 square miles). Additionally, petitioners state that the assignment will provide a first aural service to 15,809 persons in an area of 5,880 square kilometers (2,297 square miles), and a second aural

¹ Petitioners previously requested the assignment of FM Channel 231 to Smith Center, Kansas (BC Docket No. 80-518). However, that petition was dismissed at the petitioners' request, 46 FR 30518, published June 9, 1981.

² Population figures are derived from the 1980 U.S. Census, Advance Reports.

service to 4,191 persons residing in an area of 2,375 square kilometers (928 square miles).

5. In the Notice, we stated that the assignment of Channel 231 to Downs, Kansas, would cause preclusion on Channels 228A, 230, 231 and 232. However, petitioners stated that alternate channels are available to those precluded communities which contain a population in excess of 500.

6. In view of the above, we believe that the public interest would be served by the assignment of Channel 231 to Downs, Kansas. An interest has been shown for its use and the proposal would provide a first and second FM service as well as first and second aural service to substantial areas and populations.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective June 4, 1982, the FM Table of Assignments § 73.202(b) of the Commission's rules, is amended for the community listed below:

City	Channel No.
Downs, Kans.....	231

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

List of Subject in 47 CFR Part 73

Radio, Television.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-9629 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-636; RM-3917]

FM Broadcast Station in Ada, Minnesota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 292A to Ada, Minnesota, in response to a petition filed by Cecil Malme. The assignment could provide Ada with a first local aural service.

DATE: Effective June 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: March 29, 1982.

Released: April 5, 1982.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Ada, Minnesota).

1. The Commission has under consideration the Notice of Proposed Rule Making, 46 FR 47477, published September 28, 1981, in response to a petition filed by Cecil Malme ("petitioner"), proposing the assignment of FM Channel 292A to Ada, Minnesota, as that community's first assignment. Supporting comments were filed by petitioner in which he reaffirmed his intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Ada (population 1,971),¹ the seat of Norman County (population 9,379), is located approximately 360 kilometers (225 miles) northwest of Minneapolis, Minnesota. It presently is devoid of local aural service. Channel 292A can be assigned to Ada consistent with the minimum distance separation requirements of Section 73.207 of the Commission's Rules.

3. In his comments, petitioner incorporated by reference the information contained in the Notice which demonstrated the need for a first FM assignment to Ada, Minnesota.

4. We believe that the public interest would be served by the assignment of Channel 292A to Ada, Minnesota. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

5. Canadian concurrence in the assignment has been obtained.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered,

¹ Population figures are derived from the 1980 U.S. Census, Advance Reports.

That effective June 4, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended for the community listed as follows:

City	Channel No.
Ada, Minn.....	292A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

List of Subjects in 47 CFR Part 73

Radio, Television.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-9628 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-811; RM-3944]

FM Broadcast Station in Raymond, Washington; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 249 to Raymond, Washington, in response to a petition filed by David E. Gauger. The assigned channel could provide a first FM broadcast service to Raymond.

DATE: Effective June 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: March 26, 1982.

Released: April 5, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Raymond, Washington).

1. The Commission has under consideration a Notice of Proposed Rule

Making, 46 FR 58727 published December 3, 1981, which seeks the assignment of Channel 249A to Raymond, Washington, in response to a petition filed by David E. Gauger ("petitioner"). Comments supporting the proposal were filed by the petitioner, stating that he would apply for the channel, if assigned. No oppositions to the proposal were received.

2. Raymond (population 2,991),¹ in Pacific County (population 17,237), is located approximately 80 kilometers (50 miles) southwest of Olympia, Washington. It is served by full-time AM Station KAPA.

3. We have determined that the public interest would be served by the proposed assignment, inasmuch as it would provide Raymond with a first local FM and second nighttime aural broadcast service. The assignment can be made in compliance with the minimum distance separation requirements.

4. Canadian concurrence in the assignment of Channel 249A to Raymond, Washington, has been obtained.

5. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective June 4, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Raymond, Washington, as follows:

City	Channel No.
Raymond, Wash.....	249A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632-7792.

List of Subjects in 47 CFR Part 73

Radio, Television.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,
Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-9627 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

¹ Population figures are taken from the 1980 U.S. Census, Advanced Reports.

47 CFR Part 90

[PR Docket No. 80-416; RM-3428; FCC 82-134]

Private Land Mobile Radio Services; Amendment of the Commission's Rules To Expand the Use of Digital Voice Modulation Generally to the Private Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is adopting Rules which will permit users in the Public Safety, Industrial, and Land Transportation Radio Services on frequencies which are coordinated to employ digital voice emission. Security of plant and processes prompted the need for rules which will enable users to employ equipment for transmission of scrambled voice which will be unintelligible to unauthorized listeners.

DATES: Effective date May 10, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King or Keith Plourd, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 90 of the Commission's rules and regulations to expand the use of digital voice modulation generally to the private radio services. Second report and order.

Adopted: March 18, 1982.

Released: April 1, 1982.

1. On April 23, 1981, the Commission adopted a Further Notice of Proposed Rulemaking (FNPRM) in this proceeding. It was released on May 12, 1981 and appeared in the Federal Register at 46 FR 27729, FCC 81-187. Our initial Notice of Proposed Rule Making in this matter had been released on August 15, 1980 in response to a petition for rulemaking (RM-3428) submitted by the Utilities Telecommunications Council (UTC).¹ This petition had requested the Commission to amend its rules to allow the use of digital voice modulation techniques (i.e. F3Y² emission) in the Power Radio Service. In support, UTC had argued the need for security of

communications in this radio service and pointed out that the Commission had previously allowed the use of digital voice modulation in the Police and Fire Radio Services in recognition of their security of communications requirements.³ The comments in response to our Notice of Proposed Rule Making not only endorsed extending digital voice modulation beyond the Police and Fire Radio Services to the Power Radio Service, but also urged that this capability be allowed in a variety of other radio services. Therefore, on April 23, 1981 we simultaneously adopted a Report and Order authorizing digital voice modulation to the Power Radio Service,⁴ and the above referenced Further Notice of Proposed Rule Making, proposing to amend Part 90 of our Rules and Regulations to permit the use of digital voice systems in all of the private land mobile radio services. Under our proposal, this use was to be coordinated, and on a secondary, non-interference basis.⁵

2. Comments on this proposal were received from:

Association of American Railroads (AAR)
Central Committee on Telecommunications of the American Petroleum Institute (API)
General Electric Company (GE)
Manufacturers Radio Frequency Advisory Committee (MRFAC)
Motorola, Inc. (Motorola)
National Association of Business and Educational Radio Inc. (NABER)
Special Industrial Radio Service Association (SIRSA)
Zirkelbach Refrigeration, Inc.

Reply comments were received from Motorola.

Comments

3. With the exception of the General Electric Company, the parties who commented favored the adoption of rules to permit digital voice modulation in the private land mobile radio services. There was also significant sentiment expressed that it should be permitted on a primary rather than a secondary basis. In urging the adoption of final rules, all who commented agreed that many Part 90 eligibles, for a variety of reasons, require security of communications. For example, John L.

Zirkelbach Refrigeration, Inc. argued in support of this proposal:

I believe it will be useful for several reasons. It would allow business to protect themselves from competitors who monitor them and private their customers. It would prevent the unauthorized use of private information. Many licensees do not know it is legal to listen but illegal to use or repeat such information. I have even had judges in local courts allow evidence obtained by use of scanners, etc., admitted in court! The ignorance of the law is widespread.

The General Electric Co., in the same vein, stated:

GE accepts the fact that voice privacy requirements are not limited to only those services that directly affect public safety matters, although it is abundantly clear that the public interest required that the Commission focus its first attention there. Not to be overlooked, however, is the less compelling, but nevertheless important consideration of offering the same privacy to those licensees who use the radio spectrum for less critical types of communications.—Comments, General Electric Co. p. 2.

The Manufacturers Radio Frequency Advisory Committee pointed out:

It has become increasingly apparent that analog scrambling techniques are not adequate for use in high priority secure communications. The quality of the descrambled audio signal has ranged from poor to unintelligible, particularly when a mobile relay system was employed. Moreover, tests on one existing system show that, after some training and practice, personnel attempting to overcome the security of analog scrambling were able to descramble the coded information to a significant degree, sufficient at least to determine the substance of the scrambled message. For these reasons, existing analog scrambling techniques cannot be relied upon to provide security to a user's communications.

There are two distinct needs for secure communications in the MRS which cannot be satisfactorily met with analog communications. First, there is a requirement for security in law enforcement-type activities undertaken by the manufacturer with regard to its plant area. Many manufacturing plants are literally self-contained communities, with their own fire and police-security operations * * *. The second area of concern in which secure communications are required is determined by the type of manufacturing process to be secured. Many manufacturing processes are involved in matters of national security and defense. Movement of goods, chemicals and metal within and around a plant area, for example, requires totally secure operations, not only to avoid theft, but also to insure against inadvertent incidents which could increase the danger of life and property.—Comments of MRFAC pp. 2-5.

Similar views were echoed by SIRSA, API and NABER. "Analog scrambling

¹ Notice of Proposed Rulemaking, PR Docket No. 80-416, FCC 80-447, adopted July 23, 1980, released August 15, 1980.

² The emission designators shown herein and in the FCC Rules and Regulations do not conform with those specified by the 1979 World Administrative Radio Conference. Such designators therefore are subject to change in the future. The matter of emission designators is being treated in General Docket 80-739, Implementation of the Final Acts of the World Administrative Radio Conference.

³ See, Report and Order, Docket No. 21142, FCC 79-70, released February 9, 1978; Second Report and Order, Docket No. 21142, FCC 79-756, released December 3, 1979.

⁴ First Report and Order, PR Docket No. 80-416, FCC 81-186, adopted April 23, 1981, released May 11, 1981.

⁵ Secondary operation is defined in 47 CFR 90.7 as radio communications which may not cause interference to operations authorized on a primary basis and which are not protected from interference from those primary operations.

devices are used in the Special Industrial Radio Service in the more competitive industries * * *. In light of the proprietary nature of some communications related to the exploration of minerals or the need for operational security * * * SIRSA believes that some licensees may wish to take advantage of * * * digital voice systems." Comments, SIRSA p. 5; "There are growing requirements for secure mobile radio communications in the oil and gas industries that operate systems in both the Petroleum and Manufacturers Radio Services." Comments, API p. 7; "Users in the Business Radio Service include a wide variety of businesses with varying needs and degrees for secure communications from other parties. In this regard, NABER supports the Commission's proposal to make such digital voice systems available to users in the Business Radio Service and thereby allow users with particular security requirements to have such an option available to them." Comments, NABER p. 2.

4. General Electric, nonetheless, did express reservations concerning the proposal, and opposed adoption of rules implementing digital voice systems at this time:

The Commission has proposed a secondary non-interference rule as a protection against cluttering the voice bands with digital information. Although this signals the Commission's intentions of maintaining the privacy of land mobile communications, GE wonders if this is entirely adequate. Specifically, the Commission must carefully weigh the advisability of applying the technology to services which, unlike the public safety services, make extensive use of tertiary and off-set assignments * * *. What is troublesome is to speculate on whether a proliferation of digital scrambling will stultify the increased use of the offset channels in, say, the Business Radio Service.—Comments, GE p. 3.

GE also says:

This proceeding and the findings of Docket 21142 would seem to enhance its (digital communications) prominence as a modern day technology. However, again GE must entreat the Commission to consider a possible conflict with its existing non-voice requirements * * *. Unless the Commission field offices are furnished with elaborate code key information, it would appear improbable that digital non-voice messages could be distinguished from digital voice messages. Accordingly, this suggests that the Commission's enforcement of the 2 second rule would be seriously impaired.—*Id.* p. 4.⁶

⁶ 47 CFR 90.233 provides: Maximum duration of a transmission for each distinct non-voice message, including automatic repeats to the message, may not exceed 2 seconds.

5. Finally, GE raises questions with regard to the ability of co-channel users to monitor the channel and avoid causing interference:

GE has a further concern that relates to monitoring. The pseudo-random (noise-like) characteristic of digital voice modulation will be exceedingly difficult to detect and monitor by a co-channel analog user. For instance, the level of noise will have an FM receiver in full limiting, thus resulting in little audible difference between noise and digital scrambled signal. Further, a digital scrambled signal will have the propensity of keeping a conventional noise squelched receiver solidly squelched. These incompatibilities will preclude a co-channel user from monitoring a scrambled signal prior to transmitting, thereby increasing the incidence of disruptive co-channel interference.—*Id.* p. 4.

6. GE's final point is a suggestion that the proposal for expanding digital voice modulation be "tabled" until such time as the Commission can deliberate the issues in Docket 80-440⁷ to avoid the preclusionary effect of cluttering the channel's spacing in advance."

7. Motorola, Inc., on the other hand, argues in response that GE's concern about tertiary channel use is misplaced:

The data which Motorola supplied in its earlier filings in Docket 21142 clearly indicates that there is no need to treat tertiary channel interference differently than adjacent or co-channel interference. (See Motorola's Comments filed in Docket No. 21142, paragraphs 16-26.)—Comments of Motorola, pp. 1-2.

With regard to issues of co-channel users and problems of interference, Motorola says:

Further, as previously stated, DVP (digital voice privacy) has not produced any known complaints of interference from any of its present users in the Police and Fire Services as well as those licensees who have been granted waivers to operate DVP in other services.—*Id.* p. 2.

With regard to the proceeding in Docket No. 80-440, Motorola states:

Docket 80-440 is an inquiry to examine technologies which are still in their embryonic or developmental stage: digital voice modulation is here today and it is working. A decision to enfold the disposition of F3Y emission into Docket 80-440 will delay an FCC Decision in the face of demonstrated user demand without a sound technical or policy basis.—Reply Comments of Motorola, p. 2.

Secondary vs. Primary Status

8. The parties who commented split on the issue of whether a digital voice system should be a secondary or a

primary use of the channel. MRFA, for example, says:

But in a service like the MRS (Manufacturers Radio Service) which is highly coordinated, and where through engineering design, substantial frequency reuse on a geographical separation basis is the primary mode for channel sharing, licensees desiring to use digital voice technology should be able to do so on a primary basis, operating co-equal to any analog systems which may be sharing the channel.—Comments of MRFA, p. 8.

This view is shared by the Association of American Railroads, the National Association of Business and Educational Radio, Inc. and Motorola. "AAR suggests that use of digital voice be permitted on a primary basis based on the experience of the Police and Fire Radio Services." Comments AAR p. 2; "NABER also questions the Commission's proposal to limit use of digital voice operation only to a secondary non-interference basis. Given the fact that there is little evidence of interference when digital is used on a coordinated frequency there appears to be little rationale to support limiting its use on a secondary basis." Comments of NABER p. 3. Motorola, in its comments, takes the following position:

The only area of controversy which is apparent from the comments filed (save General Electric's general objection) is whether digital voice modulation would be allowed on a primary or secondary status. As Motorola has repeatedly stated, we are not aware of any reported cases of adjacent or co-channel interference from the use of F3Y emission. APCO, the single experienced coordinator of this technique, not only agrees with this evaluation but has urged the FCC to extend the use of F3Y to the Local Government Radio Service * * *. The time is ripe for a decision to be made. Systems utilizing digital voice modulation techniques are presently operating in three radio services on a primary basis. Waivers have been authorized on a primary basis. Should the Commission extend F3Y emission to the other services with a secondary status, only confusion will inevitably result. Some users will have to assume a burden of demonstrating non-interference while others will not * * *. We urge the Commission to resolve this area once and for all by authorizing the use of F3Y emission on a primary basis and to do so as expeditiously as possible.—Reply Comments of Motorola, p. 3.

9. The American Petroleum Institute took a contrary position, however:

Nevertheless, the Central Committee continues to be concerned that interference may develop where systems are operated on a co-channel basis in close proximity to one another * * *. Consequently, the Central Committee specifically endorses that portion of the Commission's proposal that would permit the use of digital voice systems only

⁷ Notice of Inquiry, PR Docket 80-440, 46 FR 17813, adopted March 5, 1981. This proceeding inquires about the use of narrow band technologies in the private land mobile radio services.

on a secondary non-interference basis after it has been frequency coordinated and specifically authorized by the Commission.—Comments of API, p. 6.

API's concern was shared by the Special Industrial Radio Service Association, Inc.:

Although we are not thoroughly convinced that digital voice systems will not pose problems when used in services with heavy frequency sharing, we are hopeful that the safeguards offered by frequency coordination and licensing on a secondary, non-interference basis will ease any negative results that might flow from the widespread use of digital voice systems in the Special Industrial Radio Service.—Comments of SIRSA, pp. 7-8.

Coordination

10. The parties who commented universally supported the Commission's proposal to require frequency coordination for the use of F3Y emission.

Miscellaneous Comments.

11. API also urged the Commission to give "serious consideration" to requiring that licensees of digital voice systems incorporate into their facilities an automatic station identifier employing Morse Code so that any interference caused by digital voice systems could be identified with the least amount of difficulty.⁸

12. AAR argued that our proposal relating to rule 90.207 should also be modified to eliminate the two second limitation on the transmission of data information:

In the proposed revision § 90.207(a) reference is made to "Authorization to use F3Y emission is construed to include the use of F9Y (digital data) emission subject to the provision of paragraphs (a), (b), and (d) of Section 90.233." AAR would question the appropriateness of this limitation since "scrambling is scrambling" and the effects from the standpoint of other users or adjacent channel users would be the same. Accordingly, it is suggested that the reference to "subject to the provisions of paragraphs (a), (b), and (d) of § 90.233" be deleted from the proposed amended § 90.207(a).—Comments of AAR, p. 2.

13. MRFAC, with regard to the subject of frequency coordination, expressed its view that the Commission should specify that any use of the F3Y or F9Y emission, whether as an initial part of the system design or as an add-on

capability to an existing system, should be coordinated in accordance with the Commission's frequency coordination requirements.⁹

Decision

14. We have reviewed the comments and replies and we have decided, for the reasons discussed below, to extend digital voice modulation capability, on a co-equal primary basis throughout the private land mobile radio services.

15. As an initial point, the comments clearly evidence a need in many of the affected radio services for digital voice communications to secure both life and property. It is also clear that the technology to do this exists and is available. We conclude that the public interest is served by adopting rules to facilitate the satisfaction of this need and that further delay in this regard is not warranted.

16. The central issues, in our view, are (1) the compatibility of digital voice and analog voice systems, and (2) our ability to monitor channel usage to assure rule compliance. The comments and our experience to date reveal no evidence of interference between digital voice and analog systems. This is so despite the fact that digital voice has been authorized on a coequal basis in three of the private radio services, and in several others under waiver. We, therefore, decide to authorize the use of this technology on all private land mobile radio service frequencies whose use is coordinated. We also decide that the status of these systems should be primary and not subject to the subordinate, secondary status we initially proposed. We agree with the view expressed by the ARR that given the fact that there is little evidence of interference when digital voice systems are used on a coordinated basis, there appears to be little rationale for imposing secondary status.

17. With regard to GE's arguments that digital voice systems will "stultify" the use of off-set channels, we note that off-set operations are secondary in nature and must give way in a situation of conflict. We hasten to add, however, that GE provided no evidence that digital voice systems would prove incompatible with off-set operations. Furthermore, we believe the coordination process should do much to eliminate the likelihood of this becoming a serious problem in the foreseeable future.

⁹ In this regard MRFAC further states that if an applicant or licensee elects to satisfy the frequency coordination requirements through an engineering field study, that the Commission should specify that some frequency search beyond "mere monitoring" must be employed. MRFAC Comments p. 6.

18. Regarding the request that we delay a decision in this proceeding pending the outcome of Docket No. 80-440, we conclude this is not warranted. There is an existing need for digital voice systems, as evidenced by the record in this proceeding and the applications which we continue to receive requesting rule waiver to allow these systems. We do not believe the public interest is served by delaying these systems merely because we have an on-going inquiry addressing the broad subject of narrow-band technologies.

19. Turning to the issue of message content, we have considered this matter at great length. Those who point out that our ability to assure rule compliance may be diminished if we permit the operation of digital voice systems, are correct. In balancing our objectives of encouraging new technologies against assuring our enforcement capability, it must be recognized that there is an incompatibility between authorizing a capability which enables security of transmissions and the employment of channel monitoring as an enforcement tool. The very effectiveness of scrambled digital voice messages hinders the ability of our Field Operations Bureau to verify that the content of these messages complies with our rule requirements. Therefore, although there is no reason to anticipate extensive abuse of our rules relative to communications content, we are adopting a requirement that all licensees of digital voice systems must accept their authorizations subject to the obligation to disclose current encoding information when it is requested by the Commission. This will be imposed as a condition of licensing on all future authorizations issued for digital voice systems. We do not believe that this is burdensome to licensees, since encoding information must be available to enable mobile units to decrypt voice messages. Implementing this requirement will enable the Commission to carry out its responsibility to maintain control over the channels of interstate and foreign radio transmission, as required by the Communications Act of 1934, as amended. See 47 U.S.C. Sections 301, and 303.

20. Addressing the comments of those who felt that if we permitted digital voice systems, we should eliminate the rule which limits non-voice (i.e. data) transmissions to two seconds, we agree that in light of the action we are taking here, the two second rule should be reconsidered. However, elimination of the restriction on data transmission in the private services is a matter beyond

⁸ API urged in the alternative, should the Commission determine not to impose this requirement, that the Commission remind each licensee of a digital voice system of its obligation to comply fully with the station identification provisions of 47 CFR 90.207(a)(5) (Types of emission) to provide such station identification with the "scrambling device disengaged." SIRSA also endorsed this latter approach.

the scope of this proceeding. We will undertake, however, an examination of this issue shortly in a separate proceeding and the views of all parties on this point will be considered at that time.

21. Since our experience thus far with digital voice systems has been limited, by and large, to coordinated radio services, we have decided not to extend digital voice operation at this time to uncoordinated channels. No comments specifically indicating a need for these systems on uncoordinated channels were received, and we believe the better course is initially to confine operation of these systems to frequencies whose use must be coordinated. As MRFAC requests, we will require that existing licenses who wish to employ F3Y or F9Y emission must separately coordinate this use.

22. MRFAC also requests that if an applicant or licensee elects to satisfy the frequency coordination requirement through an engineering field study, the Commission should specify some frequency search beyond "mere monitoring." MRFAC did not, however, indicate precisely what more it felt should be done. Our frequency coordination requirements below 470 MHz specify that a report based on a field study plus a statement that all co-channel licensees within 75 miles have been notified of the applicant's intention to apply shall accompany the application. In the 150-170 MHz band there is an additional requirement that licensees on frequencies 15 kHz removed also be notified. In the 470-512 MHz and 800 MHz bands there are geographic separation requirements between co-channel licensees. We believe, therefore, that the rules are adequate on this point, and in the absence of some specific proposal from MRFAC, we decline to adopt this suggestion.

23. The suggestion by API that the Commission require all digital voice stations to employ automatic station identification will also not be followed. We believe that the requirements of Section 90.425 as they stand are sufficient to permit identification of interfering digital voice systems should they eventuate. We are, however, adding a sentence to paragraph (a) of § 90.425 to require users of F3Y emission to identify their stations with digital encoding disabled, in the unscrambled mode (F3) or Morse code (F2), as was imposed in the Police, Fire and Power Radio Services in earlier rule making proceedings.

24. Accordingly, it is ordered, that

pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended, effective May 10, 1982, as set forth in the attached Appendix. It is further ordered that the Secretary shall cause a copy of the Second Report and Order to be published in the *Federal Register*. It is further ordered, that this proceeding is terminated.

25. For further information concerning this document, you may contact Arthur C. King or Keith Plourd, (202) 632-6497.

List of Subjects in 47 CFR Part 90 Radio.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

47 CFR, Part 90, is amended as follows:

§ 90.19 [Amended]

1. Section 90.19 is amended by removing paragraph (h).

§ 90.21 [Amended]

2. Section 90.21 is amended by removing paragraph (f).

§ 90.63 [Amended]

3. Section 90.63 is amended by removing paragraph (g).

4. Section 90.123 is amended by adding paragraph (c) as follows:

§ 90.123 Full disclosures.

(c) Each application for digital voice emission shall only be made with the understanding that the applicant is responsible to disclose current encoding information to an FCC official at any time after station authorization. Disclosure shall be only upon request of the FCC official, and only for enforcement purposes. All authorizations for digital voice systems are issued subject to this requirement.

5. Section 90.207 is amended by revising paragraph (k) to provide for the use of F3Y emission in all coordinated Radio Services as follows:

§ 90.207 Types of emission.

(k) F3Y emission may be employed on 800 MHz systems (See subpart M) or on any frequency which is subject to the

coordination requirements set forth in § 90.175 (a) or (b). The use of F3Y emission must be specifically requested and approved by the Commission. Authorization to use F3Y shall be construed to include authorization to use F9Y emission subject to the provisions of paragraphs (a), (b), and (d) of § 90.233.

6. Section 90.212 is amended by revising paragraphs (b) and (d) as follows:

§ 90.212 Provisions relating to the use of scrambling devices and digital voice modulation.

(b) The use of digital scrambling techniques or digital voice modulation requires the specific authorization of F3Y emission, and this emission will only be authorized subject to the provisions of paragraph (d) of this section.

(d) Station identification shall be transmitted in the unscrambled analog mode (clear voice) or Morse code in accordance with the provisions of Section 90.425. All digital encoding and digital modulation shall be disabled during station identification.

7. Section 90.425 is amended by revising the introductory text of paragraph (a) through the addition of instructions pertaining to identification of radio stations using scrambled analog or digital voice transmission as follows:

§ 90.425 Station identification.

(a) Identification procedure. Except as provided in paragraph (d) of this section, each station shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) during periods of continuous operation. The call sign shall be transmitted by voice in the English language, or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, transmission of the required identification shall be in the unscrambled mode using A3 or F3 emission, with all encoding disabled. Permissible alternative identification procedures are as follows:

[FR Doc. 82-9635 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 656, and 657

Foreign Fishing, Atlantic Mackerel Fishery, and Atlantic Butterfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of approval of Secretarial Amendments, extension of Fishery Management Plans, and request for comments.

SUMMARY: This notice announces that the effective dates of Fishery Management Plans for the Atlantic Mackerel and Butterfish Fisheries of the Northwest Atlantic Ocean (FMPs) have been extended by the Secretary of Commerce from April 1, 1982, through March 31, 1983. All existing regulations governing domestic and foreign fishing for Atlantic mackerel and butterfish will continue in force until otherwise amended. The action extending these FMPs is taken at the recommendation of the Mid-Atlantic Fishery Management Council, and is necessary to achieve the optimum yields for both fisheries. This notice solicits comments on the extension of both FMPs for an additional fishing year.

DATE: Fishery management plans for the Atlantic mackerel and butterfish fisheries are effective April 1, 1982, through March 31, 1983. Comments may be submitted until May 24, 1982.

ADDRESS: Comments should be sent to: Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, MA 01930-3097. Copies of the FMPs and the Secretarial Amendments are available from Mr. Grice.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, Plan Coordinator, 617-281-3600.

SUPPLEMENTARY INFORMATION: During the years that the Fishery Management Plans for Atlantic Mackerel and Butterfish Fisheries of the Northwest Atlantic Ocean (FMP) have been in effect, the Mid-Atlantic Fishery Management Council (Council) has been preparing Amendment 3, which merges the fishery management plans for squid, Atlantic mackerel, and butterfish. The amendment, in its final form, was submitted by the Council to the National Marine Fishery Service for Secretarial review on February 11, 1982. Amendment 3 is now being reviewed. If approved, implementation through required regulatory procedures will take several more months. However, the FMPs which manage the Atlantic mackerel and butterfish fisheries would have expired on March 31, 1982. Section 304(c)(1)(A) of the Magnuson Fishery

Conservation and Management Act provides that the Secretary of Commerce may prepare a fishery management plan, or amendment to any such plan, if certain conditions are met pertaining to the timeliness of Council action and the necessity for an amendment. The absence of a management plan could prevent full utilization of Atlantic mackerel and butterfish, and thereby prevent optimum yield for both species from being achieved. The effective dates of the FMPs, as amended, were extended by Secretarial amendments approved on March 29, 1982. All previous regulations governing foreign and domestic fishing for Atlantic Mackerel (45 FR 45291 and 45 FR 77445) and Butterfish (45 FR 71357) continue in force until amended otherwise. NOAA invites comments on the Secretarial amendments extending the FMPs. Comments received will be reviewed to ensure consistency between this action and the objectives of the FMPs.

List of subjects in 50 CFR Parts 611, 656, and 657:

Fisheries; fishing.

(16 U.S.C. 1801 et seq.)

Date: April 5, 1982.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-9650 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 47, No. 69

Friday, April 9, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

National School Lunch and Breakfast Programs; Elimination of Cost Based Accountability Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Nutrition Service (FNS) is proposing to amend the regulations for the National School Lunch Program (NSLP) and School Breakfast Program (SBP) to restructure the financial accountability requirements for these programs. Under this rule, it is proposed that the determination of nonprofit status, as a condition for program participation, be made by considering the financial status of the entire school food service rather than requiring separate accounting of costs and revenues for the Federal programs alone. Definitions for nonprofit school food service and for revenue to such food service are proposed and School Food Authorities (SFAs) would be required to maintain revenue and expenditure records in order to substantiate the nonprofit status of their school food service. State agencies (SAs) would be responsible for establishing the accounting systems for SFAs to use. The proposed rules would eliminate the requirement that cost be considered in assigning and paying NSLP and non-severe need SBP reimbursements to SFAs. The term "operating balance" would be eliminated and instead, SAs would be responsible for monitoring nonprofit school food service net cash resources. SAs would also be responsible for establishing systems for determining and monitoring SBP costs for the purpose of establishing eligibility for and determining payment of severe need SBP reimbursement rates.

This proposed rule would simplify Federal program requirements, reduce federally required reporting and recordkeeping burdens for SFAs, remove the program specific restrictions on Federal reimbursement, and provide added flexibility to SFAs in financing school food service operations. The rule would also provide SAs with additional overall flexibility in administering the National School Lunch and School Breakfast Programs.

DATE: To be assured of consideration, comments must be postmarked on or before June 8, 1982.

ADDRESSES: Comments may be mailed to Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302. Comments may be delivered or reviewed during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under Executive Order 12291 and has been classified as not major because it would not meet any of the three criteria identified under the Executive Order. This proposed action would not have an annual effect on the economy of \$100 million or more, nor would it result in major increases in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Furthermore, it would not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of Public Law 96-354, the Regulatory Flexibility Act. Samuel J. Cornelius Administrator of the Food and Nutrition Service, has certified that this proposed rule would not have a significant adverse economic impact on a substantial number of small entities

although it could affect virtually all SFAs participating in the School Nutrition Programs.

The recordkeeping requirements contained in this proposed rule are subject to review by OMB under the Paperwork Reduction Act and are not effective until approved by OMB.

Background

Section 819 of Pub. L. 97-35 removes most references to cost from those provisions of the National School Lunch and Child Nutrition Acts dealing with the use of Federal reimbursements in the NSLP and SBP. The Special Milk Program is not affected by these changes. In Section 8 of the National School Lunch Act, the limitation on using section 4 funds only to finance the cost of food used in the NSLP has been modified to provide that section 4 funds now be used to assist in providing such food. In section 11 of that Act, special assistance funds are to be used to assist schools in providing free and reduced price lunches to eligible children rather than to assist in financing the cost of providing such lunches. In section 4 of the Child Nutrition Act, non-severe need SBP funds are to be used to assist schools in operating a breakfast program rather than to assist them in financing the cost of operating a program. Higher severe need SBP payments, however, are still limited to the lesser of the actual cost of providing breakfasts to eligible children, or a maximum reimbursement rate.

Finally, the provision in section 12 of the National School Lunch Act limiting total reimbursement received by any SFA under the NSLP and SBP to the net cost of operating these programs was also eliminated. Consequently, the Department's June 27, 1980 regulatory proposal dealing with that provision is hereby withdrawn. The portions of the proposal dealing with the combination of NSLP and SBP program costs are adequately addressed in this proposal.

With the elimination of most Federal cost accounting requirements, SAs would no longer be required to limit the disbursement of section 4 funds to the cost of purchasing food nor would they be required to limit the disbursement of section 11 funds to the cost of providing free and reduced price meals. At the option of the SA, non-severe need SBP reimbursements and reimbursements received under the NSLP/Commodity

School Program can be used to support the SFA's nonprofit food service programs. This would provide SFAs with added flexibility in financing program operations and would decrease the amount of recordkeeping and reporting at the SFA level. However, SFAs would still be required to maintain revenue and expenditure records sufficient to establish the nonprofit status of their food service programs.

The elimination of cost-based accountability requirements does not alter existing Federal financial management standards. The requirement that SFAs establish and maintain financial management systems conforming to the standards enumerated in Departmental regulations (7 CFR Part 3015, Subpart H) remains in effect. State agencies would have the option of continuing their established cost-based accounting systems if they wish or of establishing new or revised financial management systems to monitor and support revised Federal program financial requirements.

These major changes in the use of and accountability for Federal funds within these Programs require the Department to evaluate and, where necessary, to restructure all existing regulations dealing with financial requirements. In view of the several issues involved and the options available to the Department to address those issues, the Department is issuing this proposed rule for the purpose of soliciting public comments.

The following changes in program financial requirements are proposed:

1. Assignment of NSLP reimbursement rates—SFAs would continue to be required to assign NSLP reimbursement rates to participating SFAs at the beginning of each school year but would no longer be required to assign varying rates of reimbursement based on the anticipated cost of producing a lunch and certain specific anticipated revenues available to meet that cost. However, those State agencies that wish to vary Federal reimbursements to SFAs, within the maximum rates established by the Secretary, would still have the option to do so based on the anticipated cost of producing lunches and the relative need of participating SFAs as reflected by the anticipated availability of State and local revenues.

2. Payment of NSLP and non-severe need SBP reimbursements—SFAs would no longer be required by Federal regulation to consider cost in the payment of NSLP and non-severe need SBP reimbursements to SFAs. Currently SFAs are required to: (1) limit NSLP Section 4 payments to the cost of purchasing food for the NSLP, (2) limit overall NSLP free and reduced price

payments to the cost of providing free and reduced price lunches less the children's payments received for reduced price lunches; and (3) limit SBP reimbursements to the cost of providing breakfast to eligible children less children's payments for reduced price and paid breakfasts. The elimination of these cost considerations, if adopted by SFAs, could provide SFAs with added flexibility in financing their nonprofit food service operations and could greatly decrease recordkeeping and reporting at both the SFA and SA levels. Under the proposed regulations, however, SFAs could retain their existing cost-based systems and continue to limit program reimbursements to allowable program costs.

3. Nonprofit school food service—The requirement that school food services be nonprofit would be implemented by determining the financial status of the entire school food service rather than the financial status of the Federal programs alone. A nonprofit school food service is defined on the basis of all food service operations conducted by the SFA principally for the benefit of school children. These would include the National School Lunch, School Breakfast and Special Milk Programs and could also include a la carte or other food service operations if all revenues generated by or attributable to these operations are used solely for the benefit of the overall school food service. Nonstudent meals (except for food service workers and supervisory adults) served within the school food service operation could not be supported by any proceeds from that food service except by revenues from or specifically contributed for such nonstudent meals. The Department's administrative guidance on nonstudent meals (SPD Policy Memorandum No. 555) will remain in place.

SFA's would be required to maintain revenue and expenditure records for their nonprofit school food service operations and SFAs would be responsible for determining the manner in which such records are maintained. SFAs could allow SFAs to consolidate their nonprofit school food service operations under one account in order to reduce accounting and recordkeeping burdens. (If the SFA participates in the SMP it would be required to account separately for milk purchased and served under that Program. Also, if the SFA receives severe need SBP reimbursement rates for any of its schools, it would be required to conform to the accounting system established by the SA for documenting SBP costs.) Profits from any food service operations that are not considered to be part of the

SFA's nonprofit school food service would be subject to conditions that are very similar to the regulatory restrictions that currently exist on the use of proceeds from the sale of all competitive foods. Specifically, such profits could be used to benefit the nonprofit school food service, the SFA or individual school, or student organizations approved by the SFA or school.

4. Allowable expenditures—Under this proposal, expenditures of nonprofit school food service revenues must be for school food service purposes. OMB Circular A-87 and Departmental regulations (7 CFR Part 3015) would provide the necessary guidance for determining the allowability of expenditures. All categories of costs listed in Attachment B of Circular A-87 (except for unallowable costs) would be considered allowable. Expenditures of nonprofit food service funds could be made for any allowable cost whether incurred directly or indirectly.

Current regulatory provisions § 210.7(b) and § 220.7(e) prohibit the use of program income for the purchase of land and the acquisition, construction or alteration of buildings. These prohibitions were based on language contained in section 7 of the National School Lunch Act which provided that funds expended for these purposes were not to be regarded as funds from sources within the State expended in connection with the school lunch program for purposes of meeting the three-to-one matching requirement. Since these types of expenditures were not considered to be for program purposes, NSLP funds could not be used to finance them. However, Public Law 97-35 removes the three-to-one matching requirement and with it the language dealing with capital expenditures. In the absence of legislative restriction FNS can, under OMB Circular A-87 and Departmental regulations (7 CFR Part 3015), authorize the use of program funds for capital expenditures. Under this proposed rule, nonprofit school food service revenues could be used only for the operation or improvement of such food service except that they could not be used to purchase land or buildings. Capital expenditures for altering or otherwise improving nonprofit school food service facilities would be allowable.

5. Revenue—Nonprofit school food service revenues are defined in this proposal to include all monies received by the School Food Authority's nonprofit school food service. The value of contributed goods and services is not included in the definition and School Food Authorities would not be required

by Federal regulation to maintain records of the value of such contributions.

6. *Net cash resources*—The proposed rule would eliminate the term "operating balance" and instead, require State agencies to monitor the net cash resources available to each SFA's school food service. Net cash resources at any time would include but not be limited to, cash on hand, cash receivable, accrued earnings on investments, cash on deposit and the value of stocks, bonds or other negotiable securities less cash payable. The value of food inventories would not be included in net cash resources. State agencies would be given the flexibility of determining when and how to monitor net cash resources, but would be required to review such resources at least annually for each SFA. If the State agency determines that an SFA's net cash resources exceed three months normal operating cost for the SFA's nonprofit school food service, corrective action would be required. The proposal specifies the types of corrective action that may be undertaken. As part of its ongoing management evaluation process, FNS would review each State agency's system for monitoring and controlling the net cash resources of SFAs.

7. *Severe need reimbursement rates for the SBP*—Under this proposed rule State agencies will be allowed to set up their own systems or to continue existing systems for determining and monitoring breakfast costs where such costs are needed to determine eligibility for and payment of severe need breakfast reimbursement rates. Per meal breakfast costs would be used in the determination of severe need eligibility as well as in the payment of severe need breakfast reimbursement. Depending upon the accounting system used by the SFA, per meal costs may be determined on an overall SFA basis or on a school basis. For any school year, severe need reimbursement payments to any SFA would be limited to the lesser of: (1) The cost of providing free and reduced price breakfasts to eligible children in schools determined to be in severe need (per meal cost multiplied by the number of free and reduced price breakfasts served) less the reduced price payments received by such schools; or (2) the number of free and the number of reduced price breakfasts served to eligible children in schools determined to be in severe need multiplied by the applicable severe need reimbursement rates.

List of Subjects in 7 CFR

Part 210

Food assistance programs, National School Lunch Program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agriculture commodities.

Part 220

Food assistance programs, School Breakfast Program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements.

Accordingly, it is proposed that Parts 210 and 220 be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.2, paragraph (d) is removed and reserved, a new paragraph (i-2) is added, paragraph (j) is revised to define "nonprofit school food service," and paragraphs (k) and (n-3) are revised to read as follows:

§ 210.2 Definitions.

(i-2) "Net cash resources" means all monies that are available to a School Food Authority's nonprofit school food service at any given time. Such monies include, but are not limited to, cash on hand, cash receivable, accrued earnings on investments, cash on deposit and the value of stocks, bonds or other negotiable securities less cash payable.

(j) "Nonprofit school food service" means all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food service.

(k) "Nonprofit" when applied to schools, institutions or child care centers eligible for the Program means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954, as amended; or in the Commonwealth of Puerto Rico, certified as nonprofit by the Governor.

(n-3) "Revenue" when applied to nonprofit school food service means all monies received by the nonprofit school food service including, but not limited to, children's payments, earnings on investments, other local revenues, State revenues, and Federal cash reimbursements.

2. In § 210.7, paragraph (b) is revised to read as follows:

§ 210.7 Use of funds.

(b) Revenues received by the

nonprofit school food service in any School Food Authority shall be used only for the operation or improvement of such food service: Provided, however, that such revenues shall not be used to purchase land or buildings.

3. In § 210.8, the words "lunch program" in paragraphs (e)(10) and (e)(11) are changed to read "nonprofit school food service"; in paragraph (e)(14) the words "lunch program" are changed to read "school food service"; and paragraphs (e)(1) and (e)(2) are revised as follows:

§ 210.8 Requirements for participation.

(e) * * *

(1) Maintain a nonprofit school food service and observe the limitations on the use of nonprofit school food service revenues set forth in § 210.7(b) and the limitations on any competitive school food service that is operated for profit as set forth in § 210.15b of this part;

(2) Limit its net cash resources to an amount that does not exceed three months normal operating cost for its nonprofit school food service;

§ 210.8a [Amended]

4. In § 210.8a, paragraph (f) is amended by changing the words "feeding operation" to "nonprofit school food service".

In § 210.11, the last sentence of paragraph (c) is removed, paragraph (d) is removed, and paragraphs (e) and (f) are redesignated (d) and (e), respectively. The second and third sentences of paragraph (a), the second sentence of paragraph (b), and redesignated paragraph (d) are revised to read as follows:

§ 210.11 Reimbursement payments.

(a) * * * General cash-for-food assistance payments shall be made to assist schools in obtaining food for the program. Special cash assistance payments shall be made to assist schools in providing free and reduced price lunches to children eligible for such lunches. * * *

(b) * * * At the beginning of the school year, State agencies, or FNSROs where applicable shall, within these maximum rates of reimbursement, initially assign rates of reimbursement for School Food Authorities or for schools through School Food Authorities. Such rates of reimbursement may be assigned at levels based on the anticipated cost of producing a lunch and the anticipated

State and local revenues and net cash resources available to support that cost. * * *

(d) The total general cash-for-food assistance reimbursement and special cash assistance reimbursement paid to any School Food Authority for lunches served to children during the school year shall not exceed the sum of the products obtained by multiplying the total number of free, reduced price and paid lunches respectively, served to eligible children during the school year by the applicable maximum per lunch reimbursement for each type of lunch prescribed for the school year.

§ 210.13 [Amended]

6. In § 210.13, paragraph (a) is amended by deleting the words "and other information concerning the operation of its nonprofit lunch program as set forth in paragraph (c) of this section," and paragraph (b) is amended by changing the reference to § 210.14(g)(2) in the first sentence to § 210.14(g)(1).

7. In § 210.14, paragraphs (a-1) and (g)(4) are revised to read as follows:

§ 210.14 Special responsibilities of State agencies.

(a-1) Each State agency, or FNS where applicable, shall establish a system of accounting under which School Food Authorities shall account for all revenues and expenditures of their nonprofit school food service. The system established shall also permit determination of school food service net cash resources. In addition, School Food Authorities shall be required to account separately for all competitive food services which are not operated as part of the School Food Authority's nonprofit school food service.

(g) * * *
(4) Within 90 days after the end of each school year each State agency shall submit information on the State revenue matching requirements prescribed in § 210.6 of this Part. This information shall be submitted on a form provided by FNS.

8. Section 210.15 is revised to read as follows:

§ 210.15 Review of net cash resources.

State agencies, or FNSROs where applicable, shall be responsible for monitoring the net cash resources of the nonprofit school food service of each School Food Authority participating in the Program. In the event that such

resources exceed three months normal operating cost for the School Food Authority's nonprofit school food service, the State agency, or FNSRO where applicable, may require the School Food Authority to reduce children's prices, improve food quality or take other actions designed to improve the nonprofit school food service. In the absence of any such action, adjustments in the rates of reimbursement under the Program shall be made.

9. In § 210.15b, the first sentence of paragraph (a) is amended by changing the words "a school's nonprofit food service under the program" to "lunches served under the Program," and the second sentence of paragraph (a) is revised as follows:

§ 210.15b Competitive food services.

(a) * * * The sale of competitive foods approved by the Secretary may be allowed at the discretion of the State agency and School Food Authority provided that the sale of such foods is part of the School Food Authority's nonprofit food service, or if not part of the nonprofit food service, that any profit from the sale of such foods accrue to the benefit of the nonprofit food service, to student organizations approved by the School Food Authority or the school, or to the School Food Authority, or school.

PART 220—SCHOOL BREAKFAST PROGRAM

1. In § 220.2, paragraph (p) is revised and new paragraphs (o-1), (o-2), and (t-1) are added to read as follows:

§ 220.2 Definitions.

(o-1) "Net cash resources" means all monies that are available to a School Food Authority's nonprofit school food service at any given time. Such monies include, but are not limited to, cash on hand, cash receivable, accrued earnings on investments, cash on deposit and the value of stocks, bonds or other negotiable securities less cash payable.

(o-2) "Nonprofit school food service" means all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food service.

(p) "Nonprofit" when applied to schools, institutions or child care centers eligible for the Program means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of

1954, as amended; or in the Commonwealth of Puerto Rico, certified as nonprofit by the Governor.

(t-1) "Revenue" when applied to nonprofit school food service means all monies received by the nonprofit school food service including, but not limited to, children's payments, earnings on investments, other local revenues, State revenues, and Federal cash reimbursements.

2. In § 220.7, paragraph (d)(2) is revised by changing the words "feeding operation" to "nonprofit school food service"; the words "breakfast program" in (e)(9), (e)(10), and (e)(13) are changed to read "nonprofit school food service"; and (e)(1) is revised to read as follows:

§ 220.7 Requirements for participation.

(e) * * *
(1) Maintain a nonprofit school food service, use all revenues received by such food service only for the operation or improvement of that food service except that such revenues shall not be used to purchase land or buildings, limit its net cash resources to an amount that does not exceed three months normal operating cost for its nonprofit school food service, and observe the limitations on any competitive food service that is operated for profit as set forth in § 220.12 of this part;

3. In § 220.9, the word "maximum" is removed from the first sentence in paragraph (b), paragraphs (c) and (d) are revised, and paragraph (e) is amended by adding language to the end of the paragraph as follows:

§ 220.9 Reimbursement payments.

(c) The total reimbursement for breakfasts served to eligible children in schools not in severe need in any School Food Authority during the school year shall not exceed the sum of the products obtained by multiplying the total numbers of such free, reduced price and paid breakfasts, respectively, by the applicable rate of reimbursement for each type of breakfast as prescribed for the school year.

(d) For any school year, severe need reimbursement payments to any School Food Authority shall be the lesser of: (1) The cost of providing free and reduced price breakfasts to eligible children in schools determined to be in severe need, less the reduced price payments received by such schools; or (2) The number of free and the number of reduced price breakfasts, respectively,

that are served to eligible children in schools determined to be in severe need, multiplied by the applicable severe need and reimbursement rates for such breakfasts.

(e) * * * The State agency, or FNSRO where applicable, shall be responsible for establishing systems for determining breakfast costs where such costs are necessary to the determination of whether or not a school is in severe need.

4. In § 220.11, paragraph (c) is revised to read as follows:

§ 220.11 Reimbursement procedures.

(c) Where a school participates in both the National School Lunch Program and the School Breakfast Program, the State agency or FNSRO, where applicable, may authorize the submission of one claim for reimbursement to cover both programs.

5. In § 220.12, the first sentence of paragraph (a) is amended by changing the words "a school's nonprofit food service under the Program" to "breakfasts served under the Program", and the second sentence of paragraph (a) is revised as follows:

§ 220.12 Competitive food services.

(a) * * * The sale of competitive foods approved by the Secretary may be allowed at the discretion of the State agency and School Food Authority provided that the sale of such foods is part of the School Food Authority's nonprofit food service, or if not part of the nonprofit food service, that any profit from the sale of such foods accrue to the benefit of the nonprofit food service, to student organizations approved by the School Food Authority, or the School, or to the School Food Authority or School.

§ 220.13 [Amended]

6. In § 220.13, paragraph (i) is revised, paragraph (j) is redesignated paragraph (k) and a new paragraph (j) is added as follows:

(i) Each State agency, or FNS where applicable, shall establish a system of accounting under which School Food Authorities shall account for all revenues and expenditures of their nonprofit school food service. The system established shall also permit determination of school food service net cash resources. In addition, School Food Authorities shall be required to account separately for all competitive food services which are not operated as part

of the School Food Authority's nonprofit school food service.

(j) State agencies, or FNSROs where applicable, shall be responsible for monitoring the net cash resources of the nonprofit school food service of each School Food Authority participating in the Program. In the event that such resources exceed three months normal operating cost for the School Food Authority's nonprofit school food service, the State agency, or FNSRO where applicable, may require the School Food Authority to reduce children's prices, improve food quality or take other actions designed to improve the nonprofit school food service.

In the absence of any such action, adjustments in the rates of reimbursement under the Program shall be made.

(Catalog of Federal Domestic Assistance Nos. 10.553 and 10.555)

(Section 819, Pub. L. 97-35, 95 Stat. 533, 42 U.S.C. 1759a, 1773 and 1757.)

Signed on: April 5, 1982.

Samuel J. Cornelius,
Administrator, Food and Nutrition Service.

[FR Doc. 82-9734 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 284

[Amdt. 203]

Provision of Nutrition Assistance for the Commonwealth of the Northern Mariana Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rulemaking contains proposed regulations that will provide nutrition assistance to the Commonwealth of the Northern Mariana Islands (CNMI). These regulations permit the CNMI to design a nutrition assistance program for needy persons tailored to the Islands' unique circumstances. The Food and Nutrition Service (FNS) intends to provide broad guidelines in these regulations which will give the CNMI maximum program flexibility. Program specifics will be negotiated between FNS and CNMI and set forth in a memorandum of understanding. Upon execution of the memorandum of understanding FNS will phase out the food distribution program for needy families currently in operation in the CNMI.

DATE: Because the Department feels that interested individuals and/or organizations should have an

opportunity to comment, comments are solicited through May 24, 1982.

ADDRESS: Comments should be submitted to Christopher Martin, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia 22302. All written comments, suggestions or objections will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Regulations and Policy Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Alexandria, Virginia 22302, (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291. Because of the limited amount of assistance to be provided to the CNMI, it has been determined that the rule will not have:

- An annual effect on the economy of \$100 million or more; or
- A major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions; or
- A significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Therefore, the rule has not been classified as a major rule.

The rule has also been reviewed with regard to the requirements of Pub. L. 96-354. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The provisions affect only the CNMI. Therefore, only one local government will be affected.

This rule does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

The rule would replace the food distribution program for needy families currently operating in the CNMI. Incremental costs for operation of the substitute program are not considered significant.

Background

The CNMI is made up of 14 islands located more than 3,000 miles west of Hawaii. The CNMI covers an area of 183.5 square miles and has a total population of approximately 17,000. The major islands are: Saipan, Rota and Tinian. Measured unemployment is nearly 50 percent. In 1979 per capita income was \$3,397.

The CNMI currently participates in the Department's food distribution program for needy families which now provides benefits to approximately 7,000 persons.

In 1972, the CNMI began the process of separation from the Trust Territory of the Pacific Islands. In 1975, a Covenant was signed which would permit the establishment of a Commonwealth. The Covenant was approved by the United States in 1976 and became Pub. L. 94-241.

The action taken in these regulations is generally taken pursuant to the Food Stamp Act of 1977, as amended, and to legislation enacted on March 24, 1976, approving and reiterating the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", Pub. L. 94-241, Pub. L. 95-134 and Pub. L. 96-597. The CNMI and this Department are currently involved in litigation concerning family nutrition in the CNMI. *Commonwealth of the Northern Mariana Islands v. United States, et al.*, U.S.D.C. D. Northern Mariana Islands, Civil Action No. 81-035. This action is intended to facilitate disposition of this litigation.

Memorandum of Understanding

FNS will enter into a memorandum of understanding with the government of the CNMI implementing the particular terms of the nutrition assistance program and shall provide funds to the CNMI for a nutrition assistance program. Those provisions of the Food Stamp Program which are not adopted in the memorandum of understanding are waived by operation of this document.

The regulations provide nutrition assistance for the CNMI which will allow it to design its own nutrition assistance program targeted for needy persons. The regulations permit the CNMI to design a nutrition assistance program suited to the unique cultural, social and economic circumstances in the CNMI. Its nutrition assistance program should be targeted to the most needy and should assure more nutritious diets, provide work incentives, develop CNMI self-sufficiency, and stimulate economic development and local food

production. The regulations require that a memorandum of understanding be submitted by the CNMI for approval by FNS prior to the implementation of the nutrition assistance program for fiscal year 1982. Technical assistance may be provided by FNS as needed to aid the CNMI in development of the memorandum of understanding, implementation of the program and management of nutrition assistance funds. No funds will be provided to the CNMI without FNS's approval of the memorandum of understanding.

The memorandum of understanding must include at least the following items: (1) The name of the agency which will be responsible for the administration of the nutrition assistance program; (2) a description and as assessment of the food and nutrition needs of needy persons residing in the CNMI, appropriate to demonstrate that the nutrition assistance program is directed at the most needy persons in the CNMI; (3) a detailed description of the program for nutrition assistance including a description of who will receive benefits, and how eligibility will be established, the type and amount of benefits to be received, and if the benefits vary, the basis of such variations and how the variations will be determined; (4) a description of the certification process; (5) a description of the plans for program monitoring and corrective action procedures to assure compliance with the memorandum of understanding; (6) a description of issuance and program accounting procedures to document the use of federal funds and safeguards to prevent or detect abuse; (7) an outline of specific reporting and recordkeeping requirements; (8) a detailed budget and cost estimate; and (9) other information FNS may require.

The regulations provide for the updating of the memorandum of understanding, and permit either party to submit any proposed amendments to the memorandum of understanding to the other for approval. Amendments may be made only upon agreement by both parties. FNS approval of the memorandum of understanding or its agreement to any amendment thereto shall be based, in part, on an assessment that the nutrition assistance program, as defined in the memorandum of understanding or amendment, is sufficiently detailed to permit analysis and review; adequately targeted to those with the lowest incomes; supported by the assessment of the food and nutrition needs of needy persons; effective in its impact on the diets of needy persons; reasonable in terms of

the budget requested; and effective and efficient in the use of federal funds.

Public Participation

The Administrator of the Food and Nutrition Service, Samuel J. Cornelius, has determined that there be a 45 day comment period because of the need for expeditious implementation of a nutrition assistance program in the CNMI. The Department urges interested parties to comment as early as possible within the 45 day comment period since comment analysis shall begin immediately after the comment period. The Department will carefully review all comments received by the 45th day and will give them serious consideration before final rulemaking is published. The Department cannot guarantee consideration of comments received after the 45th day.

List of Subjects in 7 CFR Part 284

Administrative practice and procedure, Food assistance programs, Grant programs—Social programs, Health, Nutrition.

It is therefore proposed to add a new Part 284 to Food and Nutrition Service regulations, Chapter II of Title 7 of the Code of Federal Regulations.

PART 284—PROVISION OF A NUTRITION ASSISTANCE PROGRAM FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI)

Sec.

- 284.1 General purpose and scope.
- 284.2 Authority.
- 284.3 Memorandum of understanding.
- 284.4 Technical assistance.

Authority: 90 Stat. 263-279 (48 U.S.C. 1681 note.); 91 Stat. 1164 (48 U.S.C. 1469a); 91 Stat. 958 (7 U.S.C. 2011-2027); 94 Stat. 3477.

§ 284.1 General purpose and scope.

This part describes the general terms and conditions under which Food Stamp Program funds shall be provided by the Food and Nutrition Service (FNS) to the Commonwealth of the Northern Mariana Islands (CNMI) for the purpose of providing a nutrition assistance program for needy persons. The CNMI's program for nutrition assistance shall be targeted to the most needy and shall assure more nutritious diets, provide work incentives, develop CNMI self-sufficiency, and stimulate economic development and local food production. Specific program requirements will be negotiated between FNS and the CNMI and documented in a memorandum of understanding.

§ 284.2 Authority.

(a) The Secretary shall, consistent with the memorandum of understanding required by § 284.3, make a nutrition assistance program available to the CNMI as soon as practicable.

(b) FNS has the authority to approve or disapprove the memorandum of understanding or any amendments thereto. FNS approval of the memorandum of understanding shall be based, in part, on an assessment that the nutrition assistance program, as defined in the memorandum of understanding or amendment, is:

(1) Sufficiently detailed to permit analysis and review;

(2) Adequately targeted to those with the lowest incomes;

(3) Supported by the assessment of the food and nutrition needs of needy persons;

(4) Effective in its impact on the diets of needy persons;

(5) Reasonable in terms of the budget requested; and

(6) Effective and efficient in the use of federal funds.

(c) Unless the memorandum of understanding is approved by FNS, no nutrition assistance funds will be provided by FNS to the CNMI.

(d) Those provisions of the Food Stamp Program regulations with which the nutrition assistance program described in the memorandum of understanding approved by FNS does not comply, are hereby waived.

§ 284.3 Memorandum of understanding.

(a) Nutrition assistance for any fiscal year in the CNMI shall be based upon the memorandum of understanding as approved by FNS. This memorandum of understanding shall be submitted for FNS approval prior to the time the program created by it is to be implemented. Amendments to the memorandum of understanding may be submitted by either party to the other for approval at any time during a fiscal year.

(b) The memorandum of understanding shall include the following information:

(1) Designation of a single agency which shall be responsible for the administration, or supervision of the administration, of the nutrition assistance program.

(2) A description of the needy persons residing in the CNMI and an assessment of the food and nutrition needs of these persons. The description and assessment shall demonstrate that the nutrition assistance program is directed toward the most needy persons in the CNMI.

(3) A description of the program for nutrition assistance including:

(i) A description of the eligibility standards and the nutrition assistance to be provided to needy persons, and any agencies designated to provide such assistance;

(ii) A description of how eligibility will be determined and the amount of benefits to be provided to individuals and if the benefits vary, the basis of such variations and how the variations will be determined;

(iii) A description of the certification process;

(iv) A description of plans for program monitoring and corrective action procedures;

(v) A description of program issuance and accounting procedures;

(vi) An outline of specific reporting and recordkeeping requirements consistent with OMB circular A-102;

(4) A budget and an estimate of the amount of expenditures necessary for the provision of the nutrition assistance and related administrative expenses; and

(5) Other information as FNS may require.

(c) Amendments to the memorandum of understanding may be suggested at any time by either party and shall require the approval of both parties prior to implementation.

§ 284.4 Technical assistance.

FNS may extend technical assistance to the CNMI to assist in the development of the memorandum of understanding or in the operation of the program detailed in the memorandum of understanding to provide for responsible management of the funds provided or available to the CNMI for nutrition assistance.

(90 Stat. 263-279 (48 U.S.C. 1681 note.); 91 Stat. 1164 (48 U.S.C. 1469a); 91 Stat. 958 (7 U.S.C. 2011-2027); 94 Stat. 3477)

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: April 5, 1982.

Samuel J. Cornelius,
Administrator.

[FR Doc. 82-9560 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 246

Extension of Implementation Date for Food Package Regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC Program)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department proposes to delay the mandatory implementation date for the new food package regulations applicable to the Special Supplemental Food Program for Women, Infants, and Children (WIC Program) published in the *Federal Register* on November 12, 1980, at 45 FR 74854, until December 31, 1982. In keeping with the initiative of the Administration, this action is being taken to allow the Department time to re-evaluate these regulations. During this review, the Department will consider measures designed to increase State agency flexibility in determining allowable food packages.

DATES: Comment period expires April 26, 1982. Comments received after April 26, 1982, will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Comments should be addressed to Barbara P. Sandoval, Director, Supplemental Food Programs Division, Food and Nutrition Service, Alexandria, Virginia 22303.

FOR FURTHER INFORMATION CONTACT: Barbara P. Sandoval, Director; Telephone 703-756-3746.

SUPPLEMENTARY INFORMATION:**Classification**

This proposed rule has been reviewed under Executive Order 12291 and has been determined to be a "non-major" rule because it does not meet any of the three criteria of the Executive Order. The proposed rule will not have an annual effect on the economy of \$100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investments, productivity, innovation or on the ability of U.S. enterprises to compete.

Relevant Previous Rules on WIC Food Packages

On August 26, 1977, WIC Program regulations were published in the *Federal Register* at 42 FR 43205 to effect various changes in requirements for the operation of the program. Those regulations delineated the specific supplemental foods and maximum quantities of each food item authorized. Following the passage of Pub. L. 95-627 in November 1978, the Department reviewed the WIC Program food packages. As a result of that review, on November 12, 1980, new food package regulations were published in the *Federal Register* at 45 FR 45854.

Full implementation by State agencies was required by November 12, 1981. Subsequent to publication of the 1980 regulations, several States expressed concerns regarding the administrative and cost burdens placed on State agencies in fully implementing the new food packages by the deadline. Therefore, the implementation date was extended 6 months, until May 12, 1982, by publication of a final rule in the Federal Register on September 1, 1981, at 46 FR 43823.

Proposed New Implementation Date

In keeping with the Administration's initiatives aimed at increasing State flexibility under Federal programs, the Department has decided to re-evaluate the WIC Program food package regulations. Pending this review, it is appropriate that States not be required to make further investments of time or funds to effect the 1980 changes in the WIC Program food packages. The Department is proposing to extend the implementation date for the 1980 food package regulations to December 31, 1982. During this period, the Department will consider, and may propose, changes in the food package regulations. In particular, the Department will consider ways of reducing the regulatory burden on State agencies.

Public Comment Procedures

The Department has determined that a comment period of less than 60 days is necessary on this proposed rule because the current mandatory implementation date for the 1980 amendments is May 12, 1982. Since it is not feasible to provide a 60 day comment period, the comment period is being shortened to 15 days.

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Director, Supplemental Food Programs Division, FNS, USDA, Room 406, Park Office Center, Alexandria, Virginia 22303 on or before April 26, 1982. All written comments will be available for public inspection at the above address.

This proposed rule has been examined and found not to contain any reporting or recordkeeping requirements which would necessitate clearance by the Office of Management and Budget (OMB).

Authority: Pub. L. 95-627.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance, WIC, Women.

Dated: April 6, 1982.

Samuel J. Cornelius,
Administrator.

[FR Doc. 82-9795 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-30-M

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Docket No. R-0392]

Regulation J; Collection of Checks and Other Items and Wire Transfer of Funds; Midweek Closings and Nonstandard Holidays

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend subpart A of Regulation J, governing the collection of checks and other items by Federal Reserve Banks, to require a paying bank to pay for cash items made available to it by a Reserve Bank on a weekday that is a banking day for the Reserve Bank but not for the paying bank. Such payment would be required as a condition of Reserve Bank handling of items payable by the paying bank. This amendment would be implemented initially only to require a paying bank to pay for cash items made available on regular weekday closing days. Regular weekday closing days are days on which some depository institutions in certain states choose, but are not required, to close on a regular basis. The amendment would eliminate the float generated when a depository institution regularly closes on a weekday and promote equity with other depository institutions that open on such days. A paying bank would not be required to open or to begin processing a cash letter on such a weekday closing day, because the time for return of the items would not begin to run until the paying bank's next banking day.

DATE: Comments must be received by May 20, 1982.

ADDRESS: Comments, which should refer to Docket No. R-0392, may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General

Counsel (202/452-3625), or Joseph R. Alexander, Attorney (202/452-2489), Legal Division; or Lorin S. Meeder, Associate Director (202/452-2738), Division of Federal Reserve Bank Operations, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: For the past several years, the Federal Reserve System has been actively pursuing methods of reducing float to the lowest possible level by making operational improvements and by improving the transportation of cash items. (Federal Reserve float is the dollar amount that has been credited by Reserve Banks to depository institutions for cash items that have not been provisionally paid by the paying banks.) These float reduction efforts have been quite successful; the level of check collection float has dropped by more than 50% since 1979.

One element of float is generated when a paying bank closes on a day when the Reserve Bank from which it receives items is open; the paying bank thereby avoids paying for items on that day. On such days, credit is passed to depositories for cash letters that include items payable by such closed institutions, and float results. The closing by the paying bank may be on a regular weekday closing day or on a holiday that is not observed by the Reserve Bank, because they are located in different States. The Reserve Banks estimate that regular weekday closings generate \$156.7 million of average daily float, or approximately 3.9 percent of Federal Reserve daily float. The majority of such float is generated in the Cleveland, Atlanta, Chicago, St. Louis, and Kansas City Federal Reserve Districts. The Reserve Banks also estimate that nonstandard holidays contribute \$110 million or 2.7 percent of Federal Reserve daily average float.

The Board recognizes that a paying bank that has regularly closed on weekdays may lose the use of funds as a result of this requirement. It may also have to bear the inconvenience of arranging to make payment on a day on when it is closed. Nevertheless, the Board is proposing the amendment for a number of reasons. First, depository institutions that regularly close on weekdays do receive credit on such days for cash items deposited with Reserve Banks. In the interest of equity the Board believes that all depository institutions should be treated similarly. The Board understands that many depository institutions that close regularly on weekdays conduct limited business on those days, e.g., acceptance

of customer deposits and ATM transactions, and some institutions actually post checks received on their closed days. Depository institutions are not generally prohibited from paying for items made available to them on such days, regardless of whether they are closed for other purposes. Second, in an explicit pricing environment, all institutions would have to bear the *pro rata* costs of the additional expense and float generated by weekday closings. This would result in additional inequity, because a large majority of depositors in Reserve Banks would subsidize the float for the small number of institutions that observe regular weekday closings. Changing depositor availability schedules for the float generated by weekday closings does not appear practical, because it would require the Reserve Banks and collecting banks to undertake the operationally complex task of keeping listings of the institutions that close and the days they close to permit the depositors to compute the credit availability of their cash letters.

The proposed amendment to Regulation J would be implemented by an amendment to the uniform Reserve Bank operating circulars governing the collection of cash items which would specify the cases in which payment would be required if the paying bank chooses to close. The requirement of payment would be imposed only if State law permits the bank to pay for cash items on a regular weekday closing day. Cash items would be made available to the paying banks so that they may begin processing if they desire to do so, but the items would not be considered to be received for purposes of accountability under § 210.9(a) of Regulation J, or for purposes of beginning the running of the time for return under § 210.12(a) of Regulation J, until the institution opens to the public for carrying on substantially all of its banking functions, as provided in § 210.2(d) of Regulation J, and actually receives its cash letter. Accordingly, the proposed amendment would not affect the rights of drawers or owners of items. Nor would the amendment require the paying bank to open on a weekday closing day, since payment will be made through a charge to an account at the Reserve Bank maintained or used by the paying bank.

The proposed amendment to Regulation J would also permit the Reserve Banks to amend their operating circulars at a later time to require payment, as a condition of Reserve Bank handling of items, on a holiday observed by a paying bank but not by its local Reserve Bank, such as regional holidays that are not mandatory upon the paying bank. While the Reserve banks do not

contemplate implementing such an amendment at this time, public comment also is requested on this aspect of the proposed change.

In view of the factors discussed above, the Board believes that requiring a depository institution that closes when other institutions in its area are open to pay for cash items made available to them is a reasonable condition that the Reserve Banks may impose upon the collection of items payable at depository institutions through the national collection system provided by the Reserve Banks.

The following information is supplied pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612.

1. Of the 1,327 depository institutions that observe mid-week closings, Board staff estimates that about one-third (approximately 450 institutions) have deposits of \$20 million or less.

2. The proposed amendment will not impose any additional reporting, recording, or other compliance requirements on any institutions.

3. The proposed amendment will not duplicate, overlap, or conflict with any other federal rule.

The most significant economic impact of the proposal on any depository institution will be the reduction of earnings on funds that could have been invested in the federal funds market had the Reserve Bank not charged the institution's account until the next banking day. The amount of such reductions will vary greatly among all of the institutions affected, regardless of an institution's size; therefore any estimate of an average reduction would be meaningless. Nevertheless, the Board recognizes that in some instances the economic impact on an institution may be significant. However, the Board does not believe that alternatives to the proposed amendment designed to lessen this impact, such as exempting small depository institutions from its coverage, would serve the regulatory aims of the Monetary Control Act (such as equal treatment for all depository institutions and reduction of Federal Reserve float).

List of Subjects in 12 CFR Part 210

Banks, banking.

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS AND TRANSFER OF FUNDS

Pursuant to its authority under section 13 of the Federal Reserve Act (12 U.S.C. 342), section 16 of the Federal Reserve Act (12 U.S.C. 248(O)), 12 U.S.C. 360, and section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)), and other provisions of law, the Board proposes to amend

Regulation J (12 CFR part 210) as follows:

In § 210.9, paragraph (a) is revised to read as follows:

§ 210.9 Payment.

(a) *Cash items.* A paying bank becomes accountable for the amount of a cash item received directly or indirectly from a Reserve Bank, at the close of the paying bank's banking day on which it receives ³ the item if it retains the item after the close of that banking day, unless, prior to that time, it pays for the item by:

³ A paying bank is deemed to receive a cash item on its next banking day if it receives the item:

- (1) on a day other than a banking day for it; or
- (2) on a banking day for it, but
 - (i) after its regular banking hours;
 - (ii) after a "cut-off hour" established by it in accordance with state law; or
 - (iii) during afternoon or evening periods when it is open for limited functions only.

(1) Debit to an account of the Reserve Bank's books;

(2) Cash; or

(3) In the discretion of the Reserve Bank, any other form of payment.

The proceeds of any payment shall be available to the Reserve Bank by the close of the Reserve Bank's banking day on the banking day of receipt of the item by the paying bank. If the banking day of receipt is not a banking day for the Reserve Bank, payment shall be made on the next day that is a banking day for the Reserve Bank. A paying bank that chooses to close on a weekday, designated in its Reserve Bank's operating circular, that is banking day for the Reserve Bank, must pay on that day for a cash item made available to it on that day by the Reserve Bank, but the paying bank is not considered to receive the item until its next banking day.

By order of the Board of Governors, April 5, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-9727 Filed 4-8-82; 8:45 a.m.]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 217 and 241

[Economic Regulations Docket 40551; EDR-441]

Reporting Data Pertaining to Civil Aircraft Charters Performed by Foreign Air Carriers; and Uniform System of Accounts and Reports for Certificated Air Carriers; Reporting of Charter Air Transportation

Dated: March 19, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to

1) eliminate the detailed reporting of domestic charter flights, 2) reduce air carriers' reporting burden by filing less detailed international charter market data, 3) add international charter reporting for certain carriers, and 4) consolidate the filing requirements so U.S. and foreign carriers would use the same form. The proposal is at the CAB's own initiative to eliminate unnecessary reports as it nears sunset.

DATES: Comments by: June 8, 1982.

Reply Comments by: June 23, 1982.

Comments and other relevant information received after these dates will be considered by the Board to the extent practicable.

Requests to be put on the Service List by: April 26, 1982.

Docket Section prepares the Service List and sends it to persons listed, who then serve their comments on the others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40551, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand or Thad Machcinski, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: This notice proposes (1) to reduce the amount of detailed charter market data filed by foreign air carriers and U.S. certificated air carriers for international operations, (2) to eliminate the reporting of such data by U.S. certificated carriers for domestic operations, and (3) to make other changes in the reporting of charter data in line with changes in the Board's regulatory needs. The changes in charter reporting proposed in this notice were discussed, but in less detail, in a CAB staff report entitled "CAB Information Systems and Early Sunset" which was widely distributed on September 15, 1981, for public review and comment. None of the comments received on that report specifically objected to the recommended reductions in charter reporting.

Background

On April 29, 1980, following a review of charter reporting by an Information Planning Project Team, the Board's staff, acting under delegated authority, issued Reporting Directive No. 10, "Permissive Waiver of the Requirements to File

Certain Statistics on CAB Form 41 Schedule T-6 and CAB Form 217." This waiver granted the carriers the following relief on a permissive basis:

(1) Eliminated the reporting of charter data involving aircraft with a capacity of less than 60 seats in passenger service or less than 12 tons in cargo service;

(2) Eliminated the reporting of intermediate flight legs on round trips;

(3) Allowed the consolidation of charter types into four groupings instead of the 13 charter types then reported;

(4) Eliminated the reporting by U.S. scheduled service carriers of domestic charter activity except for the top 150 charter markets; and

(5) Permitted the reporting of aggregate information when the same type of charters were flown between identical points.

In this rulemaking proceeding, we are proposing to incorporate into the regulations the reductions granted in Reporting Directive No. 10. In addition, the proposal goes beyond the directive in that the reporting of domestic charter information would be terminated completely. Group I and Group II route air carriers would be required to file data for international charters performed in large aircraft, and the filing requirement for U.S. carriers would be transferred from Part 241 to Part 217 so both U.S. and foreign carriers would use the same form. Additionally, we seek comments from the carriers on the cost of continuing to file charter revenue data in this report.

Charter market data are still needed by the Board to assess the impact of charter traffic on specific international markets, which the Board uses in negotiations, route licensing functions and monitoring fares and rates. This is the primary reason why we are proposing to change the applicability of this report to include all Group I and Group II route air carriers performing international charters with large aircraft.

Until the adoption of ER-1027 (42 FR 60126, November 25, 1977), Group I and II route air carriers were required to file Schedule T-6, "Report of Civil Aircraft Charters." ER-1027 eliminated that charter reporting by these carriers because they were not performing a large percentage of international operations. Now, since the adoption of the Airline Deregulation Act of 1978, a few Group I and II route carriers have in fact begun to operate international charters on a regular basis with large aircraft. We have tentatively decided that these carriers should be required to file charter statistics so that the Board's

international charter data base will be complete.

Elimination of Domestic Charter Reporting

As mentioned earlier, U.S. scheduled service carriers were relieved by Reporting Directive No. 10 from filing domestic charter data except for the top 150 charter markets. Due to the diminishing staff utilization of domestic charter data the Board has tentatively decided it no longer needs to collect domestic charter data. Thus, we are proposing to eliminate the filing of domestic charter information entirely on CAB Form 217.

Reporting Format

This proposal would keep the existing CAB Form 217 reporting format for filing charter market data with the Board. However, the reporting of the following information would be eliminated:

- (1) Day of departure;
- (2) Type of aircraft;
- (3) Flight number;
- (4) Seats contracted for; and
- (5) Tons available for revenue property.

We are eliminating these data to be in line with Reporting Directive No. 10 and to relieve carriers from filing data which the Board would not and currently does not use.

Reporting Directive No. 10 permitted carriers to consolidate charter types into 4 groupings; namely, Entity-Passenger (Own Use), Other-Passenger Charters, Entity-Cargo (Own Use) and Cargo Forwarder/Consolidator. We are proposing to keep four groupings but we are replacing the Entity-Passenger (Own Use) designation with the designation Part Charter. This new grouping is necessary to monitor the impact of part charters and for future international negotiating purposes.

Other Matters

Both U.S. and foreign carriers are required to report charter revenue information. The Board currently uses charter revenue information to estimate revenue fare yields for use in international negotiations. We are not certain that the Board's needs for retaining these data justify the costs incurred by the carriers to provide it. Thus, we are soliciting comments on the cost of filing charter revenue data so that we can make this determination. The Board is proposing to eliminate the filing of revenue data in these reports if the costs outweigh the benefits of that reporting.

Foreign carriers performing civil aircraft charters presently file three

copies of CAB Form 217 with the Board each calendar quarter. We are proposing to require only one copy of CAB Form 217 from these carriers and the U.S. certificated carriers each quarter. This will reduce the paperwork burden on the carriers.

Charter operations conducted with aircraft with a maximum takeoff weight of 18,000 pounds or less were exempt from the requirements of CAB Form 217. Reporting Directive No. 10 changed this exemption to apply to aircraft designed to have a maximum passenger capacity of 60 or fewer seats, and a maximum payload capacity not more than 24,000 pounds and made the exemption applicable to Schedule T-6 reporting as well. This proposal would keep the exemption for small aircraft operations as stated in Reporting Directive No. 10 since these operations are not used for the Board's regulatory and bilateral purposes and because they closely resemble air taxi operations which are exempt from CAB Form 41 reporting.

The proposed new CAB Form 217 is included as Attachment A to this proposal.¹

Regulatory Flexibility Act

The Board certifies under the Regulatory Flexibility Act, Public Law 96-354, that this proposal, if adopted, will not have a "significant economic impact on a substantial number of small entities." Only a limited number of Group I and II route carriers would be affected by this proceeding, of which only a few are small businesses. The remaining Group I and Group II route carriers either do not perform international charters or they do so with aircraft that are specifically exempt from the reporting changes contemplated in this rulemaking.

List of Subjects in 14 CFR Part 217

Air carriers, Charter flights, Reporting and recordkeeping requirements.

List of Subjects in 14 CFR Part 241

Air carriers, Reporting and recordkeeping requirements, Uniform system of accounts.

The Board proposes to revise 14 CFR Part 217, *Reporting Data Pertaining to Civil Aircraft Charters Performed by Foreign Air Carriers*, and to amend 14 CFR Part 241 *Uniform System of Accounts and Reports for Certificated Air Carriers*, as follows:

1. Part 217 would be revised to read:

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY U.S. CERTIFICATED AND FOREIGN AIR CARRIERS

Sec.

217.1 Definitions.

217.2 Applicability.

217.3 Report of civil aircraft charters performed by U.S. certificated and foreign air carriers.

217.4 Extension of filing time.

217.5 Certification.

217.6 Reporting instructions.

217.7 Waivers from reporting requirements.

Authority: Secs. 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, 901, 902, 1002, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 757, 758, 760, 766, 769, 771, 783, 784, 788; 76 Stat. 145; 49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1471, 1472, 1482.

§ 217.1 Definitions.

As used in this part:

"International charter" means a charter flight in air transportation that has flight stages with one or more terminals outside of territory under U.S. jurisdiction.

"Part charter" means a flight that includes both charter and scheduled service passengers.

"Small aircraft" means an aircraft designed to have a maximum passenger capacity of 60 or fewer seats, and a maximum payload capacity not more than 24,000 pounds.

§ 217.2 Applicability.

This part applies to foreign air carriers that are authorized to perform civil aircraft charters to or from territory under U.S. jurisdiction and to U.S. certificated air carriers performing international charters except for their operations with small aircraft.

§ 217.3 Reporting of civil aircraft charters performed by U.S. certificated and foreign air carriers.

(a) Each U.S. certificated and foreign air carrier shall file CAB Form 217, entitled "Report of Civil Aircraft Charters Performed by U.S. Certificated and Foreign Air Carriers." CAB Form 217 may be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.²

(b) One copy of CAB Form 217 shall be filed for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year. This report shall be submitted to the Reports Control Section, Data Systems Management Division, Office of Comptroller, Civil Aeronautics Board, Washington, D.C. 20428, so as to be received on or before the due dates

indicated below. Due dates falling on a Saturday, Sunday or national holiday become effective the first following working day.

SCHEDULE OF DUE DATES

Filing for quarter ended	Due date
Mar. 31.....	Apr. 30.
June 30.....	July 30.
Sept. 30.....	Oct. 30.
Dec. 31.....	Jan. 30.

(c) If no charter flights were operated for the quarter to be reported, one copy of CAB Form 217 endorsed "no flights operated" shall nevertheless be filed. If charter flight operations have been discontinued indefinitely, one copy of CAB Form 217 endorsed "charter flight activity discontinued indefinitely" shall be filed and no further quarterly reports are required until such time as any charter flight is flown.

§ 217.4 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, a written request for an extension shall be filed with the Data Systems Management Division at least 3 days in advance of the due date, except in an emergency, setting forth good reason to justify the granting of the extension and the date when the report can be filed. If a request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

§ 217.5 Certification.

The certificate in CAB Form 217 shall be signed by the person in charge of preparing the form, and shall apply to all accompanying reports and documents.

§ 217.6 Reporting instructions.

(a) A complete report shall be made on CAB Form 217 for all charter operations conducted by U.S. certificated and foreign air carriers to or from the United States, except for those charter flights performed with small aircraft.

(b) Reporting of charter flights shall be on a charter type basis, by flight leg; that is, there will be a separate line of data for each flight leg of each charter type that is flown between a different set of points. If the charter type, flight leg, point of enplanement and point of deplanement are identical, the reported data then shall be put in the aggregate for the entire month, regardless of the number of flights flown between those points.

(c) Each CAB Form 217 submitted shall consist of three separate monthly

¹ Form filed as a part of original document.

² Form filed as a part of original document.

reports within each of the respective calendar quarters. Data for each flight leg shall be reported for that month in which the flight leg began. The reported month, year, and name of carrier shall be inserted in the areas provided in the upper left hand corner of the report. The date code shall show the year first and then the month (e.g., 8206 for June 1982). The carrier area shall show the carrier's standard 2-position alpha code as shown in the Official Airline Guide (OAG). If the carrier has no such code, it should leave those two positions blank until assigned a code by the Board's Office of Comptroller.

(d) Column (1) is reserved.
(e) Column (2) is reserved.
(f) Column (3) is reserved.
(g) Column (4) shall reflect each type of charter by the following codes:

EC = Entity-Cargo (Own Use)
EF = Cargo Forwarder/Consolidator
EP = Part Charter
PZ = Other Passenger Charters

Charters flown for the transportation of charter traffic of another air carrier or foreign air carrier shall be reported solely by the carrier in operational control of the aircraft, naming the type of charter, e.g., EP, and traffic carried. Charters flown to accommodate the scheduled traffic of another direct air carrier shall be reported as entity charters.

(h) Column (5) shall identify each leg by the following numbers:

- 1—One-way flight.
- 2—Originating leg of round trip.
- 4—Return leg of round trip.

The outbound and return legs of any roundtrip group movement shall not be reported as one-way flight legs.

(i) Column (6) shall reflect any point at which a charter group, cargo load, or part of a group or load was enplaned. Departure points for ferry legs shall not be reported. Technical stops, e.g., for departure formalities or refueling, shall not be reported. Where a diversion occurs for weather or other reasons, the planned rather than the actual point of enplanement shall be reported. The point of enplanement shall be identified by the three-letter airport code used in the OAG. If no OAG code exists, the point of enplanement shall be written out, in a footnote if necessary.

(j) Column (7) shall reflect any point at which a charter group, cargo load, or part of a group or load was deplaned. Arrival points for ferry legs shall not be reported. Technical stops, e.g., for entry formalities or refueling, shall not be reported. Where a diversion occurs for weather or other reasons, the planned rather than the actual point of deplanement shall be reported. The point of deplanement shall be identified

by the three-letter airport code used in the OAG. If no OAG code exists, the destination name shall be written out, in a footnote if necessary.

(k) Column (8) is reserved.

(l) Column (9) is reserved.

(m) Column (10) shall reflect revenue in U.S. dollars only (no cents) for the flight leg being reported. For departing and returning legs of simple round trips, revenue shall be divided so that one-half of total revenue is shown for each flight leg. Where a different rate is charged for the outbound and the return flight legs, the actual charges for each leg shall be reported. For open-jaw or circle-tour trips, report actual revenue for each flight leg, prorating by each leg's mileage if necessary. Where ferry mileage is charged, prorate the ferry charge over all legs of the total program. Separate revenue entries shall be made for each enplaning charter group. Revenues shall show the price paid for air transportation by the charterer, not the charterer's price to the passenger. In a "wet lease" to a carrier that in turn uses the aircraft for a charter, the lessor shall report the revenue it obtains from the lessee, and not the price the lessee charges the charterer.

(n) Column (12) shall reflect the number of tons (to the nearest tenth of a

short ton) of property enplaned in Entity-Cargo (Own Use) and Cargo Forwarder/Consolidator charters only.

§ 217.7 Waivers from reporting requirements.

A waiver from any reporting requirement contained in CAB Form 217 may be granted by the Civil Aeronautics Board upon its own initiative, or upon the submission of a written request to the Board's Office of Comptroller from any air carrier, when such a waiver is in the public interest. Each request for waiver must expressly demonstrate that: existing peculiarities warrant a departure from the prescribed reporting; a specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal of the prescribed reporting; and the application of such alternative procedure will maintain or improve uniformity in reporting as between air carriers.

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

2. Section 22(a), *General reporting instructions*, would be amended by removing all references to Schedule T-6, to read:

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Schedule title	Filing frequency	Applicability by carrier group		
			I	II	III
T-3.1	Statement of traffic and capacity statistics	Monthly	(1)	(2)	(3)
T-7	Statistical market report	Monthly			(4)

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due date	Schedule No.
Jan. 30	P-1(a), T-1, T-2, T-3, T-3.1, T-7, T-9.
Apr. 30	P-1(a), T-1, T-2, T-3, T-3.1, T-7, T-9.
July 30	P-1(a), T-1, T-2, T-3, T-3.1, T-7, T-9.
Oct. 30	P-1(a), T-1, T-2, T-3, T-3.1, T-7, T-9.

3. Section 25, *Traffic and capacity Elements*, would be amended by removing the *Report of Civil Aircraft Charters* subheading and reporting instructions for Schedule T-6.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-9715 Filed 4-8-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Texas—3 Addition III)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by Section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or

costs. Under Section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR § 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Cisco-Canyon Formations be designated as tight formations under § 271.703(d).

DATE: Comments on the proposed rule are due on May 3, 1982. Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 19, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:
Issued April 2, 1982.

I. Background

On March 1, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that additional areas found in the Cisco-Canyon Formations in Glasscock County, Texas, be designated as tight formations. On January 23, 1981 and March 17, 1982, the Commission issued Order Nos. 125 and 217, respectively, in Docket No. RM79-76 (Texas-3) in which the Commission designated portions of the Cisco Sandstone Formation in the Sallie (Cisco) Field as tight formations under § 271.703 and currently there is under consideration a recommendation to designate the Cisco Sandstone Formation in the Credo, East Field as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Cisco-Canyon Formations be added to the previously designated tight formations should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Cisco-Canyon Formations in the area of the Conger, S. W. (Penn) Field in the southeastern portion of Glasscock County, Texas, Railroad Commission District 8, be designated as tight formations. The recommended area consists of Sections 40 and 41, T-5-S, Block 32, T & P RR Co. Survey. The top of the Cisco sand is encountered at a log depth of 8,110 feet in the Grand Banks Energy Co. No. 1 Edmonson "A" well. The top of the Canyon sand and base of Cisco sand are encountered at a log depth of 8,330 feet in the same well, with the base of the Canyon sand at 8,500 feet. The total thickness of the recommended formations is approximately 390 feet and is the same correlative interval as the interval designated Cisco in the Sallie (Cisco) Field.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of these formations will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Cisco-Canyon Formations as described and delineated in Texas' recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on

this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, on or before May 3, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Texas-3 Addition III) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than April 19, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, High cost gas, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulations.

PART 271—CEILING PRICES

Section 271.703 is amended by adding (d)(12)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations.

* * * * *

(12) The Cisco Sandstone Formation in Texas. RM79-76 (Texas-3)

* * * * *

(iii) Cisco-Canyon Formations. (A) Delineation of formation. The Cisco-Canyon Formations are found in the

area of the Conger, S. W. (Penn) Field, Glasscock County, Texas, and consists of Sections 40 and 41, T-5-S, Block 32, T & P RR Co. Survey.

(B) *Depth.* The top of the Cisco Sandstone Formation is found at a log depth of 8,110 feet and the base of the Cisco Sandstone Formation and top of the Canyon Sandstone Formation are found at a log depth of 8,330 feet in the Grand Banks Energy Company No. 1 Edmonson "A" well. The total thickness of the formations is approximately 390 feet.

[FR Doc. 82-9519 Filed 4-8-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76 (Texas—11 Addition II)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by Section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under Section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking contains the recommendation of the Railroad Commission of Texas that an additional area of the Wilcox Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on May 3, 1982. Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 19, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued: April 2, 1982.

I. Background

On March 1, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Wilcox Formation located in Webb County, Texas, be designated as a tight formation. The Commission previously adopted recommendations that portions of the Wilcox Formation in Webb and Starr Counties, Texas, be designated as tight formations (Order Nos. 199 and 208, issued December 16, 1981 and February 5, 1982, respectively, in Docket No. RM79-76 (Texas—11)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Wilcox Formation in the West Cole Field be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Wilcox Formation in the area of the West Cole Field in the eastern portion of Webb County, Texas, Railroad Commission District 4, be designated as a tight formation. The area recommended is approximately 36 miles east of the city of Laredo, Texas, and is within a 2.5 mile radius around the Forest Oil Corporation Rosa V. de Benavides No. 1 well located in the B. S. & F. Survey No. 701, A-904.

The top of the recommended formation appears at approximately 9,135 feet and extends to 10,315 feet (log depths) giving a total thickness of 1,180 feet in the Rose V. de Benavides No. 1 well which is the only completion in the recommended formation.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to

produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Wilcox Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 3, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Texas—11 Addition II), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than April 19, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, High cost gas, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title

18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding (d)(63)(iii) to read as follows:

§ 271.703 Tight formations.

(d) Designated tight formations. * * *

(63) Wilcox Formation in Texas.
RM79-76 (Texas—11).

(iii) West Cole Field.

(A) Delineation of formation. The Wilcox Formation in the area of the West Cole Field, Webb County, Texas, is located approximately 36 miles east of the city of Laredo, Texas, and is within a 2.5 mile radius around the Forest Oil Corporation No. 1 Rosa V. de Benavides well.

(B) Depth. The top of the Wilcox Formation, West Cole Field, is at approximately 9,135 feet and extends to 10,315 feet (log depths), resulting in a total thickness of 1,180 feet.

[FR Doc. 82-9520 Filed 4-8-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76 (Texas—21)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by Section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under Section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the James

Limestone Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on May 3, 1982. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 19, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

Issued April 2, 1982.

I. Background

On March 1, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that a portion of the James Limestone Formation, located in parts of San Augustine and Shelby Counties, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that a portion of the James Limestone Formation (James Lime) be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The area recommended for tight formation designation consists of 67,900 acres in northern San Augustine County and southern Shelby County, located in Texas Railroad Commission District 6. The area surrounds and extends northwest of the city of San Augustine. The center of the recommended area is a point approximately 4.17 miles south of the Shelby County line and 4.2 miles northwest of the center of the city of San Augustine.

The James Lime is a subdivision of the Pearsall Formation and overlies the Pine Island Shale and underlies the Bexar Shale, both also members of the Pearsall Formation. The top of the James Lime ranges from minus 6700 feet subsea in the north to minus 7750 feet subsea in the south. Its thickness, measured in the Rainbow Resources, Inc., B. M. Pollard No. 1 well is approximately 202 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public

hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the recommended portion of the James Limestone Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 3, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Texas—21) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that

they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than April 19, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, High cost gas, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding paragraph (d)(106) to read as follows:

§ 271.703 Tight formations.

(d) Designated tight formations.

(74) through (105) [Reserved]
(106) James Limestone Formation in Texas. RM79-76 (Texas-21). (i)

Delineation of formation. The James Limestone Formation is found in northern San Augustine County and southern Shelby County in Texas. The designated area includes 67,900 acres surrounding and extending northwest of the city of San Augustine, Texas.

(ii) *Depth.* The top of the James Limestone Formation ranges from -6700 feet subsea in the north to -7750 feet subsea in the south, with a thickness of approximately 202 feet.

[FR Doc. 82-9521 filed 4-8-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 168

[Docket No. 81N-0256]

Powdered Dextrose (Icing Dextrose); Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a

United States standard for powdered dextrose (icing dextrose) based on the Recommended International Standard for Powdered Dextrose (Icing Dextrose) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

EFFECTIVE DATE: April 9, 1982

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 11, 1981 (46 FR 60626), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Two letters from trade associations representing the sugar refining and corn wet milling industries were received, each of which stated that there is no need for a U.S. standard for powdered dextrose and recommended that the proposed standard be withdrawn from the rulemaking process.

Having considered all the comments received and all relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for powdered dextrose (icing dextrose) under authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for powdered dextrose (icing dextrose) based upon the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for powdered dextrose (icing dextrose) upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: April 5, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-9718 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 168

[Docket No. 81N-0260]

Powdered Sugar (Icing Sugar); Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a United States standard for powdered sugar (icing sugar) based on the Recommended International Standard for Powdered Sugar (Icing Sugar) (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 11, 1981 (46 FR 60628), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Three letters from trade associations representing the sugar industry and the retail baking industry were received, each of which stated that there is no need for a U.S. standard for powdered sugar and recommended that the standard be withdrawn from the rulemaking process.

Having considered all the comments received and all relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for powdered sugar (icing sugar) under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for powdered sugar (icing sugar) based upon the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for powdered sugar (icing sugar) upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: April 5, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-9717 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-037B]

Occupational Exposure to Inorganic Arsenic

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of limited reopening of the inorganic arsenic rulemaking record; notice of comment period and informal public hearing.

SUMMARY: This notice reopens the rulemaking record for the Inorganic Arsenic Standard (43 FR 19584, May 5, 1978; 29 CFR 1910.1018) to receive information relating to assessments of risk from exposure to inorganic arsenic and the significance of that risk. Preliminary risk assessments are presented for public comment. The notice is published in response to the Ninth Circuit Court of Appeals remand which orders the Agency to receive additional evidence and make additional findings on the issues presented by *Industrial Union Department v. American Petroleum Institute*, 448 U.S. 607 (1980). The Court further ordered that, subject to limited stays issued by the Court, the standard would remain in effect during the proceeding.

DATES: Written comments, notices of intention to appear at the informal public hearing, and evidence and testimony to be introduced at the

hearing must be submitted by June 18, 1982. An informal hearing will commence on July 13, 1982 at 10 a.m.

ADDRESSES: Comments should be sent in quadruplicate to: Docket Officer, Docket H-037B, Room S6212, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210. Notices of intention to appear at the hearing, testimony and evidence should be sent in quadruplicate to: Mr. Tom Hall, OSHA Division of Consumer Affairs, Room N3635, U.S. Department of Labor, Washington, D.C. 20210. Telephone (202) 523-8024. The public hearing will be held in the Auditorium, Frances Perkins Labor Department Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dr. Robert P. Beliles, Occupational Safety and Health Administration, Room N3718, U.S. Department of Labor, Washington, D.C. 20210. Telephone (202) 523-7081.

SUPPLEMENTARY INFORMATION:

Background

In 1971, in accordance with section 6(c) rulemaking procedures of the Occupational Safety and Health Act of 1970, OSHA adopted the consensus standards for airborne concentrations of "arsenic and its compounds" at 0.5 mg/m³ (0.5 mg=500 µg), lead arsenate at 0.15 mg/m³ and calcium arsenate at 1.0 mg/m³, as determined on an eight-hour time-weighted average basis. These limits were based on the 1968 ACGIH list of Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment (TLV's).

OSHA began the process of revising the 1971 standard after receipt of the National Institute for Occupational Safety and Health document, "Criteria for a Recommended Standard * * * Occupational Exposure to Inorganic Arsenic," published in 1973. The National Institute for Occupational Safety and Health (NIOSH) recommended that no worker be exposed to a concentration of arsenic greater than 50 micrograms per cubic meter (µg/m³) of air determined as a time-weighted average (TWA) exposure for up to a 10-hour workday, over a 40-hour work week. This standard was based on reports that associated occupational exposure to inorganic arsenic with the induction of cancer. On September 20, 1974, following a notice published in the *Federal Register*, OSHA conducted an informal fact-finding hearing on the potential health hazards

associated with occupational exposure to inorganic arsenic.

On November 8, 1974, NIOSH sent to OSHA new recommendations for inorganic arsenic including a more stringent permissible exposure limit of 2 µg/m³ of air as determined over a 15-minute sampling period. NIOSH based its new recommendations on additional significant information, along with earlier reports on the carcinogenicity of inorganic arsenic. The new recommendations appeared in a revised criteria document published in 1975.

On January 21, 1975, a proposed standard for the control of occupational exposure to inorganic arsenic to a limit of 4 µg/m³ was published by OSHA in the *Federal Register* (40 FR 3392). The proposal included a detailed preamble describing the rationale for the proposed standard, the information relied upon in its development, and the provisions of the proposed standard. The notice requested the submission of written comments, data, views and arguments on all of the issues raised by the proposal and scheduled an informal public hearing pursuant to section 6(b)(3) of the Act commencing April 8, 1975. A notice of the availability of a Technological Feasibility Analysis and Inflationary Impact Statement was published on June 24, 1976 (41 FR 26029) and the record on feasibility issues and new scientific data was reopened. Another informal hearing on feasibility issues commenced on September 8, 1976.

On May 5, 1978, a final standard regulating occupational exposure to inorganic arsenic as a carcinogen was published in the *Federal Register* (43 FR 19584). This standard (29 CFR 1910.1018) applied to all employments in all industries except pesticide application, agriculture, and the treatment and use of arsenically preserved wood. The standard reduced the former 500 µg/m³ permissible exposure limit to 10 µg/m³ and established requirements for monitoring, exposure control strategy, medical surveillance, and other provisions. OSHA concluded, based on the evidence contained in the record, that inorganic arsenic is a carcinogen, that there is no safe level of exposure, and that 10 µg/m³ is the lowest feasible level to which employee exposure could be controlled.

Shortly after its promulgation the inorganic arsenic standard was challenged by industry in several U.S. Courts of Appeals. The cases were consolidated in the U.S. Court of Appeals for the Ninth Circuit in three cases, *ASARCO Inc., et al. v. OSHA*, No. 78-1959, *The Anaconda Co. et al. v. OSHA*, Nos. 78-2764 and 3038 and

General Motors, et al. v. OSHA Nos 78-2477 and 2478.

Although the ASARCO case was briefed and argued, the Ninth Circuit Court on its own motion withdrew the case from consideration pending the decision of the Supreme Court in *Industrial Union Dept. v. American Petroleum Institute (IUD v. API)*, 448 U.S. 607, 100 S. Ct. 2844 (1980), the "Benzene Decision." The Supreme Court held in that case that OSHA must make a determination of the significance of risk prior to issuing its standard.

During the rulemaking proceedings on arsenic, OSHA had not made any estimates of the degree of risk at low levels of exposure to inorganic arsenic. In light of the Supreme Court's benzene decision, therefore, industry representatives petitioned the Ninth Circuit to vacate the inorganic arsenic standard and remand it to OSHA for reconsideration. OSHA agreed that the standard would be remanded for the purpose of analyzing the quantitative degree of health risk and for the purpose of arriving at a determination of the significance of that risk as required by *Industrial Union Dept. v. American Petroleum Institute*. However, OSHA requested that the standard remain in effect during the period of the remand because, unlike the benzene standard, there were measured data showing excess cancer risk at levels below the prior (500 $\mu\text{g}/\text{m}^3$) exposure limit. In addition, three risk assessments later performed on inorganic arsenic indicated excess risk at levels of exposure well below the 500 $\mu\text{g}/\text{m}^3$ level.

On April 7, 1981, the Ninth Circuit Court of Appeals issued the following order:

This matter is remanded to permit respondent to reopen the record to receive additional evidence and to make additional findings in the light of *Industrial Union Department v. American Petroleum Institute*, 448 U.S. 607, 100 S. Ct. 2844 (1980). If respondent determines the permissible exposure level for inorganic arsenic should be adjusted, the respondent shall amend the standard accordingly. Jurisdiction is retained. The matter shall be resubmitted to this court on the amended record no later than one year from the date of this order. . . .

The occupational health standard regulating employee exposure to inorganic arsenic shall remain in effect pending the resubmission of this matter to this court, and until further order of this court, except insofar as petitioners have obtained stays from this court or variances from the respondent.

Thus, the inorganic arsenic standard remains in effect for all employers except for limited stays granted by the Ninth Circuit to ASARCO, Inc., on June 19, 1979, the Bunker Hill Co., on

December 11, 1979, the Anaconda Co. on December 26, 1979, and Kennecott Corp. on November 19, 1981, for their facilities only. The stays basically permit those companies to achieve the 10 $\mu\text{g}/\text{m}^3$ exposure limit through the use of respiratory protection equipment rather than engineering controls. Except for the requirement to build new, filtered air lunchrooms at their facilities, all other provisions of the standard are in effect for those companies.

Some automotive manufacturers requested permanent variances from the arsenic standard's (as well as the lead standard's) provisions for engineering controls and certain other requirements for their solder-grind operations. Lead-arsenic solder, used to fill body joints, is ground smooth in these operations. The companies stated that there were no feasible engineering controls available to reduce exposure to 10 $\mu\text{g}/\text{m}^3$ and that supplied air respirators, hoods and suits provided appropriate protection. OSHA granted variances permitted the affected companies (*General Motors*, 45 FR 46922, July 11, 1980; *Chrysler*, 45 FR 74096, November 7, 1980; *Ford*, 46 FR 32520, June 23, 1981) to use supplied air respirators to comply with the 10 $\mu\text{g}/\text{m}^3$ permissible exposure limit. Certain additional requirements were specified in the variance grants, including an order that the companies were to attempt to eliminate the use of lead-arsenic solder by developing appropriate substitutes.

As noted above, the 1978 inorganic arsenic standard did not include a risk assessment, based on legal considerations and Agency policy views applicable at the time. OSHA pointed out that the results of risk assessments were somewhat speculative, that the methodology used bordered on the frontiers of scientific knowledge and that there was not adequate scientific basis to verify the mathematical estimates derived by risk assessments that would reflect a realistic expectation of the incidence of tumor induction (43 FR 19617).

Subsequent to the issuance of the inorganic arsenic standard, however, the Supreme Court ruled that the OSH Act requires that, prior to issuance of a new standard, a determination be made that a significant risk exists and that the new standard will reduce or eliminate that risk. The court stated that "before he can promulgate any permanent health or safety standard, the Secretary is required to make a threshold finding that a place of employment is unsafe—in the sense that significant risks are present and can be eliminated or lessened by a change in practices" (448 U.S. 642). The Court also stated "that the

Act does limit the Secretary's power to requiring the elimination of significant risks" (448 U.S. 644).

The Court indicated, however, that the significant risk determination is "not a mathematical straitjacket," and that "OSHA is not required to support its finding that a significant risk exists with anything approaching scientific certainty." The Court ruled that "a reviewing court [is] to give OSHA some leeway where its findings must be made on the frontiers of scientific knowledge [and that] * * * the Agency is free to use conservative assumptions in interpreting the data with respect to carcinogens, risking error on the side of over-protection rather than under-protection" (448 U.S. 655, 656). The Supreme Court thereby acknowledged that risk assessments, although they are mathematical estimates with some inherent uncertainties, are nevertheless valid for demonstrating the existence of a significant risk.

This finding by the Court mitigates some of the concern that OSHA had previously about risk assessments. Keeping in mind that the predictions of risk presented are estimates and not certain, hard numbers, OSHA believes that the predictions derived from the risk analysis performed on arsenic are reasonable and based on good data.

Accordingly, with this notice, OSHA reopens the inorganic arsenic rulemaking record for the purpose of receiving evidence and making findings on the assessment of the degree of risk from occupational exposure to arsenic and the significance of that risk, and making any adjustments to the standard as may be warranted by the additional evidence and findings on risk. Comments are requested on these issues, including the risk assessments presented below and risk assessment for inorganic arsenic in general. The Agency is not reopening the record for or soliciting comments on other issues.

This document summarizes OSHA's preliminary analysis of risk, briefly reviews the science of risk assessment, summarizes three risk assessments performed for inorganic arsenic, states in detail the reasons for OSHA's preliminary analysis of risk, and discusses the significance of the estimated risk.

The three risk assessments discussed, were prepared by Dr. Kenneth Chu, Special Assistant to the Director of Health Standards Programs; the Environmental Protection Agency's Carcinogen Assessment Group (EPA-CAG); and Clement Associates, Inc., a scientific consulting firm under contract to OSHA. These documents are

available from OSHA's Docket Office at the address indicated at the beginning of this notice. Included with these documents is an errata document containing corrections of typographical and transposition errors in Dr. Chu's assessment.

The following is an outline of material on risk assessment to be considered in this notice.

I. Summary of OSHA's Preliminary Analysis

II. Risk Assessment

A. General Considerations In Making Risk Assessments

B. Mathematical Models Used in Determining Risk

III. Arsenic Risk Assessment

A. General

B. Dr. Kenneth Chu's Assessment

C. Clement Associates' Assessment

D. EPA-CAG's Assessment

E. Effects of Smoking

F. Review of the Three Risk Assessments

IV. Significance of Risk

I. Summary of OSHA's Preliminary Analysis

Based on data in the record and estimates from the risk assessments, OSHA has concluded that a significant risk is presented by inorganic arsenic at the prior 500 $\mu\text{g}/\text{m}^3$ limit and that a lower exposure limit is needed. The Ninth Circuit has already agreed with this conclusion stating "it is undisputed that exposure to inorganic arsenic at the level of 500 $\mu\text{g}/\text{m}^3$ * * * poses a significant health risk * * *" (*ASARCO et al. v OSHA, supra*, memorandum, April 7, 1981, p. 3).

OSHA preliminarily concludes for the reasons stated below and based on the risk assessments and evidence now before it that a 10 $\mu\text{g}/\text{m}^3$ exposure limit and industrial hygiene provisions in the arsenic standard are necessary and appropriate to significantly reduce the health risk. These requirements will very substantially reduce the risk and will protect employees principally in the nonferrous metal smelting, automobile and arsenical chemical industries. Finally, OSHA preliminarily concludes that the inorganic arsenic standard, as issued on May 5, 1978, does not reduce the risk from exposure to arsenic below the level of significance.

As discussed below, in greater detail, two types of evidence indicate that inorganic arsenic causes a significant risk of developing lung cancer at the prior 500 $\mu\text{g}/\text{m}^3$ level. The first is measured data in the arsenic record and discussed in the May 5, 1978, preamble that indicates that there is a significant risk below the 500 $\mu\text{g}/\text{m}^3$ level. For example, the Lee and Fraumeni study indicates that for long term exposure to

inorganic arsenic, a 445 to 567% excess risk (334 to 425 excess cases per 1000 exposed employees) of lung cancer exists at 580 $\mu\text{g}/\text{m}^3$ and a 150 to 210% excess risk (112 to 158 excess cases per 1000 exposed employees) exists at 290 $\mu\text{g}/\text{m}^3$.

The second type of evidence is results from risk assessments. They predict a 500 to 620% excess risk (375 to 465 excess cases per 1000 exposed employees) for long term exposure at 500 $\mu\text{g}/\text{m}^3$. As explained below, a risk assessment is a scientific method of utilizing data from one or more measured points and using various assumptions and statistical techniques, to make predictions of risk at levels where there is no measured data.

Estimates from the risk assessments indicate that the 10 $\mu\text{g}/\text{m}^3$ level will significantly reduce the risk from inorganic arsenic but will not reduce risk below the level of significance. Risk assessment estimates, based on the Lee and Fraumeni and the Pinto and Enterline studies, indicate that the excess risk of developing lung cancer from 45 years exposure to inorganic arsenic at 10 $\mu\text{g}/\text{m}^3$ ranges from 10 to 14% (7.7 to 10 excess cases per 1000 exposed employees). These estimates are based on a linear mathematical model for cancer initiation. A risk assessment using a quadratic model for cancer initiation leads to estimates of an excess risk of 9.5% (7 excess cases per 1000 exposed employees) at 50 $\mu\text{g}/\text{m}^3$ and an excess risk of 0.38% (0.3 excess cases per 1000 exposed employees) at 10 $\mu\text{g}/\text{m}^3$. The scientists performing the risk assessments believe that the linear model is more appropriate than the quadratic model and that the linear model fits the data better. Clearly, the 10 $\mu\text{g}/\text{m}^3$ level very substantially reduces risk from the 500 $\mu\text{g}/\text{m}^3$ level.

The level of risk estimated to exist at 10 $\mu\text{g}/\text{m}^3$ based on a linear model is 7 to 10 excess cases of lung cancer per 1000 exposed employees. OSHA believes that this level of risk does not appear to be insignificant. It is below risk levels in high risk occupations but it is above risk levels in occupation's with average levels of risk. In addition, the Supreme Court stated as to a 1 in 1000 level of risk of fatality that "a reasonable person might well consider the risk significant and take appropriate steps to decrease or eliminate it" (*JUD v. API*, 448 U.S. 655).

In addition to establishing an exposure limit, the inorganic arsenic standards includes housekeeping requirements to minimize reintroduction of dust into the air, comprehensive respirator provisions designed to give greater assurance that respirators work

and are used properly, lunch room provisions to reduce the possibility of arsenic ingestion, and requirements for showers, protective clothing and changeroom facilities to prevent exposure after working hours. In addition, there are medical surveillance requirements and monitoring provisions. These good industrial hygiene practices often did not exist in the past, when the exposures which form the bases of the current estimates of excess risk took place. Therefore, the real reduction in risk, if exposures are reduced from 500 $\mu\text{g}/\text{m}^3$ to 10 $\mu\text{g}/\text{m}^3$ with good industrial hygiene practices, is likely to be greater than the numerical differences would indicate. The reason for this is the elimination of exposures from ingestion, and exposures outside the worksite which have been greatly reduced by the new standard. However, the reduction of risk expected beyond that estimated using the mathematical models discussed in this notice cannot be quantified because the additional degree of exposure reduction cannot be measured.

By achieving the 10 $\mu\text{g}/\text{m}^3$ limit, industry will have done all that can reasonably be expected to protect their employees from the risks of arsenic. Substantial progress has already been made. Separate from this notice, OSHA proposed to the affected smelter companies and the United Steelworkers which represents smelter workers, a cooperative assessment by technical experts representing the three sectors to evaluate control methodology to protect employees while maintaining the efficiency of the smelting industry. This suggestion was accepted and an agreement reflecting the needs of one such facility has already been signed by all parties.

It should be noted that the inorganic arsenic standard covers only occupational exposure to inorganic arsenicals. The estimates of risk would not be applicable to organic arsenicals for which OSHA has no data indicating risk. In addition, OSHA pointed out in 43 FR 19613 that arsenic in preserved wood has substantial chemical differences from other arsenicals, after the reaction, and therefore, based on the existing record, it did not believe it appropriate to regulate preserved wood.

II. Risk Assessment

A. General Considerations for Quantitative Risk Assessment

A quantitative risk assessment is an attempt to predict the degree of risk associated with a specific level of exposure. This can be done either

through direct observation or by extrapolation, a statistical technique used estimate risk at levels outside the range of observed exposure levels.

The specific case of inorganic arsenic involves both of these procedures. Determining risk at the pre-1978 PEL of 500 $\mu\text{g}/\text{m}^3$ involves little estimation because the dose falls well within the range of the observed doses. Predicting risk at 10 $\mu\text{g}/\text{m}^3$ involves estimation at dose levels lower than those seen in the study population i.e., a low-dose extrapolation. Two steps are necessary to perform and extrapolation. First, a functional relationship between dose and response is established using the experimental data, that is, a curve is "fit" to the data. (A functional relationship is a mathematical relationship where a change in one quantity results in a corresponding change in another quantity.) Secondly, in order to predict a response outside the experimental range, it is then assumed that this same mathematical relationship will hold in the range of doses that were not observed. By "reading off" the curve, one is able to estimate the risk at any dose level. Confidence in the risk estimates is increased if (1) the assumptions "reflect the expected experience of workers in a fashion that most people find reasonable," and (2) the "extrapolation is not required to extend far beyond the range of actual measurement." (Clement Associates, p. 2.)

Comparability in route and duration of exposure as well as carcinogenic response (e.g., same site of tumors) also increase confidence in the prediction of risk from one observed population to another population. The use of epidemiological data obtained from one worker population to estimate the risk to another worker population, therefore is desirable since it eliminates the need to extrapolate to a more general or heterogeneous population.

B. Mathematical Models Used in Determining Risk

Two mathematical models for cancer initiation have been employed in the quantitative risk assessments presented: the linear model and the quadratic model. Both of the models have been selected for their biological plausibility in describing the processes of carcinogenesis.

The models predict that risk is proportional to dose (linear model) or the square of the dose (quadratic model) and assume that there will be a common biologic response to the insult over the entire range of doses. Predictions based on the linear model are also consistent

with estimates which would result from the multistage model at low doses. (The multistage model is based on the theory that several stages are required prior to cancer development, a theory which is also consistent with known biologic mechanisms (Armitage and Doll (1961), Crump et al., (1976)).

Other mathematical models for determining risk have been proposed, such as the probit and logit models, and the Weibull model, but these are more frequently used in the analysis of animal bioassay data. The use of the linear and quadratic models for the analysis of the epidemiologic data on exposure to arsenic is consistent with the methodology employed by C.E. Land for OSHA when evaluating the risk from exposure to coke oven emissions (41 FR 46753, October 22, 1976).

III. Arsenic Risk Assessment

A. General

The three studies in the arsenic rulemaking record that provide the basis for performing the risk assessments discussed in this notice are: the Pinto and Enterline (Exhibit 29 B) study at the ASARCO-Tacoma Copper Smelter; the Lee and Fraumeni (1969) study at the Anaconda Copper Smelter; and the Ott, Holder and Gordon (1974) study at a Dow Chemical Co. plant. The details of these studies are discussed in depth in the preamble to the final rule for inorganic arsenic (43 FR 19587-90, 19494-96). Relevant parts of the studies and necessary assumptions used in making an assessment of risk are discussed below.

The Pinto and Enterline study and the Lee and Fraumeni study provide substantially more than the minimum data that are needed in order to perform a risk assessment. These studies and independently supplied data in the record include number of deaths from respiratory cancer for both exposed and unexposed populations and quantitative exposure data at several measured exposure levels. The data from the reports demonstrate a dose-response relationship. Furthermore, the group of employees examined in the epidemiologic studies is the same group that would be affected by this standard, eliminating the need to extrapolate to a different worker population. All of these factors contribute to increased confidence in the estimates obtained from risk assessment.

The quality of the Pinto and Enterline and Lee and Fraumeni studies and their suitability for risk assessment have been acknowledged. Arthur D. Little, Inc., a consulting firm engaged by Kennecott to review the data, described the Lee and

Fraumeni study as an "exceptional investigation" (Ex. 26 A, p. 32). Clement Associates, Inc., commented that the data from both studies were "exceptionally well suited to risk assessment" (Clement Associates, p. 3).

B. Chu Assessment

Dr. Kenneth Chu, while on detail to OSHA from the National Cancer Institute, performed a risk assessment utilizing the linear model for purposes for extrapolation. Dr. Chu also completed a risk assessment based on a quadratic model, although he indicated in his report that the linear model is more representative of the risk associated with arsenic exposure because this model "fits" the observed data better. Fit in this case is measured by the correlation coefficient squared or " R^2 ". R^2 indicates how close the measured points are to the dose-response curve predicted by the model. The closer the R^2 number is to one, the better is the fit. That is, if the model predicts the observations perfectly, then R^2 equals one. It was pointed out in his report that it can be seen by inspection that R^2 values are, in general, higher for the linear model than the quadratic model.

Dr. Chu's statistics are presented in two basic formats. The first is the percentage of excess risk of respiratory cancer above the background level. For example, based on the Lee and Fraumeni data the excess risk of 68% for workers exposed to 50 $\mu\text{g}/\text{m}^3$ of arsenic for working lifetime means that those workers would have a 68% greater chance of dying of lung cancer than an equivalent group of workers not exposed to inorganic arsenic.

The inorganic arsenic preamble and many epidemiology studies present results in the form of a standardized mortality ratio or SMR. The standardized mortality ratio is defined as the observed number of deaths divided by the expected number of deaths and is usually expressed as a percentage. In that system of notation, the normal death rate for a group from a specific cause is stated as 100 and a 68% increase above the normal rate would be indicated as an SMR of 168.

The excess risk of lung cancer from inorganic arsenic exposure is also presented as the number of lung cancer deaths per 1,000 exposed workers over a lifetime. For example, a 68% excess risk of lung cancer death for workers, as mentioned above, would be 51 excess lung cancer deaths per 1,000 exposed workers over those workers' lifetimes. This number represents the increased number of lung cancer deaths due to

inorganic arsenic exposure above the normal level of deaths from lung cancer.

Dr. Chu points out in his report that the data in the inorganic arsenic record demonstrate a measured excess risk of lung cancer at levels below the pre-1978 500 $\mu\text{g}/\text{m}^3$ exposure limit. The Lee and Fraumeni study found an SMR of 478 (378% excess risk) for all workers exposed at 580 $\mu\text{g}/\text{m}^3$; an SMR of 239 (139% excess risk) for all workers exposed at 290 $\mu\text{g}/\text{m}^3$; and an SMR of 214 (114% excess risk) for short-term workers (cohorts 3 to 5, 1 to 14 years of exposure) exposed at 290 $\mu\text{g}/\text{m}^3$. These risks were measured directly. No conversions are required and the risks are independent of the need to make assumptions inherent in a low-dose risk extrapolation.

According to Dr. Chu's estimates, a 45-year working lifetime of exposure to 500 $\mu\text{g}/\text{m}^3$ of arsenic will result in at least a 524% excess risk of lung cancer or at least 393 excess deaths per 1000 exposed workers over a lifetime, assuming no other competing cause of death. A 45-year working lifetime exposure to 50 $\mu\text{g}/\text{m}^3$ of arsenic will result in a 68% to 167% excess risk of lung cancer or 51 to 125 excess deaths per 1000 exposed workers over a lifetime, and a 45-year working lifetime exposure to 10 $\mu\text{g}/\text{m}^3$ of arsenic will result in a 14% to 33% excess risk of lung cancer or 10 to 25 excess deaths per 1000 exposed workers over a lifetime.

C. Clement Associates, Inc., Assessment

Clement Associates, Inc. have stated that the underlying data were of high quality permitting performance of a good risk assessment and that a linear model was appropriate. Clement estimated that a 45-year working lifetime of exposure to 500 $\mu\text{g}/\text{m}^3$ of arsenic will result in a 525% to 620% excess risk of lung cancer or 394 to 465 excess deaths per 1000 workers over a lifetime. It estimated that a 45-year working lifetime of exposure to a 50 $\mu\text{g}/\text{m}^3$ or arsenic will result in a 52% to 62% excess risk of lung cancer or 39 to 46 excess deaths per 1000 exposed workers over a lifetime. It estimated that a 45-year working lifetime exposure to a 10 $\mu\text{g}/\text{m}^3$ of arsenic will result in a 10% to 12% excess of lung cancer or 7.7 to 9.1 excess deaths per 1000 exposed workers over a lifetime.

D. EPA-CAG Assessment

The EPA's Carcinogen Assessment Group's (EPA-CAG) judgment were that the underlying data was sufficient to perform a risk assessment and that a linear model was appropriate. It estimated, as a best estimate, an 8.1% increase in lung cancer per 1 $\mu\text{g}/\text{m}^3$ of

arsenic for environmental exposure of 24 hours a day, 365 days a year over a natural lifetime. Since a working year exposure (40 hours per week for 46 weeks) is only about 20% of an environmental exposure, the estimate of risk had to be adjusted to a working year estimate before comparisons could be made with the other risk assessments. The formula the EPA-CAG used, based on a 46-week work year, was:

$$\frac{46 \text{ weeks} \times 40 \text{ hours}}{365 \text{ days} \times 24 \text{ hours}} = 0.21$$

In addition, a natural lifetime averages 74 years while a maximum working life is considered to be 45 years. Therefore, the EPA-CAG's risk factor has to be further reduced to take into account the shorter number of years exposed during work.

The conversion is $45/74 \times 0.21 = 0.128$. Therefore, the 8.1% excess risk per 1 $\mu\text{g}/\text{m}^3$ of arsenic exposure estimated by EPA-CAG must be multiplied by 0.128 to convert to a working lifetime equivalent of an excess risk of 1.0368% or approximately 1% excess risk per 1 $\mu\text{g}/\text{m}^3$ of arsenic exposure. This results in a 500% excess risk of lung cancer at 500 $\mu\text{g}/\text{m}^3$ of arsenic exposure.

$$\frac{1\% \text{ excess risk}}{1 \mu\text{g}/\text{m}^3 \text{ arsenic}} \times \frac{500 \mu\text{g}/\text{m}^3 \text{ arsenic}}{1} = 500\% \text{ excess risk}$$

or 375 excess deaths per 1000 workers over a working lifetime, a 50% excess risk at 50 $\mu\text{g}/\text{m}^3$ or 38 excess deaths per 1000 workers over a working lifetime, and a 10% excess risk at 10 $\mu\text{g}/\text{m}^3$ or 8 excess deaths per 1000 workers over a working lifetime.

The following table summarizes the risk assessments for arsenic prepared by Dr. Chu, Clement Associates, and the EPA Carcinogen Assessment Group at arsenic exposure levels of 10 $\mu\text{g}/\text{m}^3$, 50 $\mu\text{g}/\text{m}^3$ and 500 $\mu\text{g}/\text{m}^3$ based on the studies of Lee and Fraumeni, and Pinto and Enterline (Table 1). The results show reasonable agreement.

TABLE 1.—SUMMARY OF WORKER EXPOSURE LIMIT RISK TO ARSENIC

	45 yr exposure		30 yr exposure	
	Excess deaths per 1,000	Excess risk (percent)	Excess deaths per 1,000	Excess risk (percent)
Dr. Chu.....	10-25	14-33	7-17	9-22
Clement.....	7.7-9.1	10-12	4.7-6.3	7-8
EPA-CAG.....	8	10	5	7

TABLE 1.—SUMMARY OF WORKER EXPOSURE LIMIT RISK TO ARSENIC—Continued

	45 yr exposure		30 yr exposure	
	Excess deaths per 1,000	Excess risk (percent)	Excess deaths per 1,000	Excess risk (percent)
Risk at 50 $\mu\text{g}/\text{m}^3$				
Dr. Chu.....	51-125	68-167	33-82	45-110
Clement.....	39-46	52-62	26-31	35-41
EPA-CAG.....	38	50	25	33
Risk at 500 $\mu\text{g}/\text{m}^3$				
Dr. Chu.....	393-713	524-951	262-475	349-634
Clement.....	394-465	525-620	263-310	350-414
EPA-CAG.....	375	500	248	330

¹ Extrapolation based on Lee and Fraumeni data.

² Extrapolation based on Pinto and Enterline data.

³ Calculated from a one-hit model.

The results in Table 1 utilize the linear model which each of the three experts considered appropriate. Though Dr. Chu also performed the computations to estimate risk utilizing the quadratic model, he believes this model to be less appropriate. These computations are presented in Tables 3 and 5A of his assessment. The all cohort estimate for the quadratic model based on Lee and Fraumeni data (excluding the heavy exposure group) demonstrates a 9.5% excess risk (7 excess cases per 1000) at 50 $\mu\text{g}/\text{m}^3$ and a 0.38% excess risk (0.3 excess cases per 1000) at 10 $\mu\text{g}/\text{m}^3$. The all cohort estimate for the Pinto and Enterline data demonstrates a 70% excess risk (53 excess cases per 1000) at 50 $\mu\text{g}/\text{m}^3$ and 2.8% excess risk (2.1 excess cases per 1000) at 10 $\mu\text{g}/\text{m}^3$. These estimates are taken from what is believed to be the most representative cohort and factual situation.

The result from the Ott et al. study are not incorporated in the table because the study was not included by Clement Associates. Based on the Ott Study, Dr. Chu estimated the following risks after 45 years of exposure. For the 500 $\mu\text{g}/\text{m}^3$ level, the excess probability of getting respiratory cancer is 767/1000 for a 1023% increase above background. For 50 $\mu\text{g}/\text{m}^3$, the excess probability is 156/1000 for a 194% increase, and for 10 $\mu\text{g}/\text{m}^3$ the excess probability is 29/1000 for a 39% increase.

E. Effects of Smoking

It is well documented elsewhere that smokers have a higher risk of developing lung cancer than non-smokers. Smoking, therefore, could be an important confounding factor in the interpretation of epidemiologic studies addressing the risk of developing lung cancer. Nevertheless, it is clear from the analysis below that the excess risk of lung cancer observed in the three epidemiologic studies of arsenic

exposed workers cannot be attributed primarily to smoking.

Enterline analyzed the effects of smoking on the findings of the Pinto and Enterline study (Ex. 111, Att 4). He was able to obtain smoking histories from all living pensioners in the cohort and smoking histories from relatives of those cohort members who had died since January 1, 1961. He then compared mortality patterns of arsenic workers who were smokers with smokers in the general population, and arsenic workers who were non-smokers with non-smokers in the general population. The risks for respiratory cancer were elevated by a factor of 2.6 for smokers and by factor of 4.6 for non-smokers. Therefore, the increased risk of respiratory cancer among arsenic workers cited in the Pinto and Enterline study is not due to smoking alone. Furthermore, Enterline's survey showed that the percentage of smokers among the arsenic workers as about 51%—not substantially different from that of the general population. Therefore, there is approximately the same level of smoking in the control population as the exposed population, thus making adjustment for smoking unnecessary.

In the Ott et al. study, smoking histories for the workers in the study were not available. The authors stated that "a cross-sectional review of smoking histories from 1968 to 1972 of 200 arsenic-exposed employees revealed no differences relative to the whole population at the location and no differences related to exposure dosage." If this survey reflects the smoking history of the arsenic workers in the study, a substantial increase of lung cancer due to smoking alone in the exposed population would not be expected.

In the Lee and Fraumeni study, smoking histories for workers in the cohort were not available. The authors estimated that even if all of the arsenic workers were heavy smokers, only a 2.0- to 2.5-fold excess over lung cancer death rates in the general population is associated with heavy smoking, while as much as an 8-fold excess was seen among workers exposed to a "heavy" level of arsenic for 15 or more years. Therefore, the authors concluded that "... it is highly unlikely that smoking alone would account for the excess respiratory cancer mortality observed."

A more plausible hypothetical example also demonstrates that smoking could not account for excess risk in the Lee and Fraumeni study. According to a report to the Surgeon General (1979), the percentage of cigarette smokers among U.S. male adults during the years 1949 to 1969 was

estimated to be about 50%. The percentage of cigarette smokers among U.S. male blue collar workers in 1976 was also estimated to be about 50%. It is possible that the populations of the State of Montana, where the Lee and Fraumeni study plant was located, may have smoking histories which are different from the rest of the country, but a substantial deviation from the U.S. experience is unlikely. Even assuming a 20% difference in the proportion of smokers between the arsenic workers (i.e., 60%) and the comparison population (i.e., 40%), smoking alone would account for only about a 40% increase of lung cancer risk over that of the comparison population.*

The excess risk in the Lee and Fraumeni study ranged from 114% for low-exposure short-term workers to 700% for long-term high exposure workers. If the exposed population had a higher percentage of smokers, as assumed for the purpose of the example, only 40% excess risk could be explained by smoking.

Upon analysis of data in the record, OSHA believes that smoking alone would not account for the excess lung cancer demonstrated in the three studies. OSHA acknowledges that some adjustment to the SMR for lung cancer is necessary when there is a significant difference in the smoking patterns between the study population and the comparison population. However, in two of the three studies, smoking patterns of these two groups appear to be similar and in the third study, while no data are available, smoking differences could not be the significant factor in explaining excess risk. Therefore, OSHA believes the risk estimates are reasonable, although no adjustments have been made for smoking. (See also the discussion at 43 FR 19589-90).

F. Review of the Three Risk Assessments.

The three quantitative risk assessments for inorganic arsenic exposure discussed above generally agree on the formulation of the problem and analysis of the data. The three assessments agree that the underlying data provide a reasonable basis for risk assessments. Each assessment concluded that the linear model is most appropriate. The three risk assessments

* Assuming a 10-fold excess of lung cancer among smokers as compared to non-smokers, a population consisting of 60% smokers would have 6.4-fold excess and a population consisting of 40% smokers would have a 4.6-fold excess of lung cancer compared to non-smokers. Therefore, the relative risk of a 60% smoker population compared to a 40% smoker population is 1.4 (6.4/4.6) or 40% excess.

report excess mortality due to arsenic within a narrow range.

The discussion that follows briefly outlines the differences in approach among these assessments, particularly when the differences impact on the resulting estimates of risk.

Both Dr. Chu and Clement Associates computed risks for a lifetime occupational exposure, whereas the EPA-CAG assessment calculated risks from a lifetime environmental exposure. As discussed earlier, the EPA-CAG estimates of risk have been adjusted to make them comparable to the estimates provided by Dr. Chu and Clement Associates. Slightly different expressions of the doses were used in the regression equations (Dr. Chu plotted year- $\mu\text{g}/\text{m}^3$ vs. excess risk; Clement Associates and the EPA-CAG plotted fraction-of-total-lifetime- $\mu\text{g}/\text{m}^3$ vs. excess risk).

In analyzing the Lee and Fraumeni data, Clement Associates' and Dr. Chu's risk assessments utilized the more extensive exposure data in the arsenic record, based on measurements made by Anaconda. However, Clement Associates and Dr. Chu's preferred estimates do not use the data for the workers in the highest exposure category. (Those workers frequently wore respirators, therefore the levels of arsenic inhaled would have been lower than the level of arsenic measured in the ambient air.) OSHA agrees that the high level environmental exposure data are less certain as measures of exposure to the lung and can reasonably be omitted when estimating risk.

The EPA-CAG risk assessment utilized a 1975 NIOSH survey of Anaconda as the basis for estimating exposure of workers in the Lee and Fraumeni study. These exposure data were "derived from a single survey of copper smelter conducted after the period of employment of the workers studied" in the Lee and Fraumeni study (Clement Associates, p. 4). The "heavy" and "medium" exposure classifications were virtually identical in this analysis and, therefore, the two exposure levels were averaged.

The exposure levels used in the risk assessment, based on the Pinto and Enterline results, are derived from urinary arsenic levels. All three risk assessments utilized the same factor, 0.3, which is presented in the arsenic record, to convert urinary levels to airborne levels.

The risk assessment performed by Dr. Chu on the Pinto and Enterline data utilized an estimate that the urinary arsenic levels in the early 1950's were twice the 1973 level presented in data

contained in the arsenic record, as the estimate of exposures prior to 1950 as well. Dr. Chu believes that these estimates are better estimates of exposure because they take into account the protection afforded by the respirators that were sometimes used and because higher exposure would have resulted in acute symptoms.

However, both the Clement and EPA-CAG assessment are based on estimates presented in the Pinto and Enterline 1977 update that stated that exposures before 1948 were 5 to 10 times higher than the 1973 levels. These higher estimates of past exposures are based on ASARCO's estimates, though these estimates were not based on detailed studies. Since an assumption of higher exposures in the past would result in lower estimates of risk per unit of exposure, this particular assumption is the principal explanation for the higher estimates of risk in the assessment performed by Dr. Chu.

OSHA accepts the higher estimates of past exposure because they are documented in the published literature and because ASARCO has had extensive programs for monitoring arsenic going back to the late 1930's. However, Dr. Chu's estimates are reasonable also, for the reasons he presented. OSHA notes that the low side estimates of risk by Dr. Chu are based on Lee and Fraumeni data and not affected by this assumption. The estimates Dr. Chu presents from the quadratic model, based on the Pinto and Enterline data and his discussion of the level of exposure in Pinto and Enterline study, for which there is measured risk, is dependent on the estimates of past exposures.

Clement Associates chose not to report estimates of risk based on the study by Ott et al. Dr. Chu presented his estimates based on the Ott data in Table 9 of his risk assessment, but these were not included in his preferred estimates. The EPA-CAG averaged results from the Ott study with data from the other two studies in making their overall risk estimate. Because the Ott data tended to produce estimates which were much higher than those from the other two studies, this tends to raise the EPA-CAG estimate of risk. (EPA-CAG estimated an 8.1% increase in the lung cancer rate per increase of $1 \mu\text{g}/\text{m}^3$ of atmospheric arsenic—the geometric mean of estimates of 3.3% (Lee and Fraumeni), 9.4% (Pinto and Enterline) and 17.0% (Ott et al.). The mean, excluding the Ott et al. data, is approximately 5.6%). Both approaches are reasonable.

OSHA concludes, as it did in the 1978 final standard for arsenic, that the Lee and Fraumeni and the Pinto and

Enterline studies are excellent epidemiologic studies and that the Ott study is a reasonably good study. These studies provide a sound data base for performing risk assessments because of their excellent follow-up, reasonable exposure estimates, and strong dose-response relationship. They provide considerably more than the minimum data necessary for attempting risk assessment. As Clement Associates stated, "... the information available on arsenic is exceptionally well suited to risk assessment, and it should be possible to place somewhat more confidence in these estimates than can be placed in the usual assessments which are based primarily on animal data." (Clement Associates, p. 3).

OSHA concurs with the three experts that the linear hypothesis appears to be the most reasonable approach for estimating the risk presented by occupational exposure to inorganic arsenic. The linear model provides an excellent fit to the data. (See the discussion of the R^2 in the summary of Dr. Chu's assessment above and on page nine of his assessment. A better fit than the quadratic model is noted for 14 of the 15 separate analyses performed for the Lee and Fraumeni data, the highest quality data available.) There is a good biologic basis for the linear model and it has been utilized in prior estimates of risk at low levels based on epidemiologic data (See the discussion in II B above).

In addition, the preamble to OSHA's regulations for "Identification, Classification and Regulation of Potential Occupational Carcinogens" is consistent with the above analysis and recommends, as a general matter, that a linear model be followed (45 FR 5200, January 22, 1980).

The linear model is often recommended as a conservative estimate presenting an upper bound to a sigmoidal curve, also a common biologic response relationship, at low levels. (Gross et al., 1970). However, it should be noted that OSHA has not based its conclusions on choosing the most cautious assumptions. Estimates based on the Ott data have not been used by themselves (except as they are one component of the EPA estimate) because they are not of a high quality as the Lee and Fraumeni and Pinto and Enterline data. Use of the Ott data would lead to higher estimates of risk. Similarly, as discussed in the review of the Pinto and Enterline data, OSHA accepts ASARCO's estimate of exposure levels as being, on balance, somewhat preferable to Dr. Chu's.

Because the underlying data used in the risk assessments are of high quality, and because the assumptions and

methodology of the three risk assessments are strong and well supported, the estimates of risk presented in Table 1 are believed by OSHA to be reasonable predictions of the excess risk of respiratory cancer due to occupational exposure to arsenic. OSHA believes that those estimates with Dr. Chu's high side estimates excluded (which were based on his estimates of exposure levels) are preferable for the reasons stated. These are the estimates presented above by OSHA as its preliminary analysis. In addition, OSHA has included the results based on a quadratic model and the Lee and Fraumeni data. These also are reasonable estimates, though for the reasons discussed, they do not appear to be as well supported as the estimates based on the linear hypothesis.

Several recent reports (Enterline, 1981; Enterline and Marsh, 1980; Lee-Feldstein, 1981; Lubin et al., 1981), yet unpublished or recently published, were summarized at a public conference held on arsenic in November 1981. These reports continue to show excess lung cancer among smelter workers exposed to inorganic arsenic. However, after complete analysis they may indicate some differences in the quantitative estimates of risk. It is expected that the details of Enterline (1981) and Lee-Feldstein (1981) work will be available of public comment at the hearings.

IV Significance of Risk

OSHA's overall analytic approach for setting worker health standards is a four-step process consistent with recent court interpretations of the OSH Act and rational, objective policy formulation. In the first step, risk assessments are performed where possible and considered with other relevant factors to determine whether the substance to be regulated poses a significant risk to workers. Then, in the second step, OSHA considers which, if any, of the proposed standards being considered for that substance will substantially reduce the risk. In the third step, OSHA looks at the best available data to set the most protective exposure limit that is both technologically and economically feasible. In the fourth and final step, OSHA considers the most cost-effective way to achieve the objective.

The Ninth Circuit's remand provides that OSHA consider the issues presented by the first two steps and some of the elements of the third step. This notice and rulemaking directly addresses those matters. As discussed below a cooperative evaluation by technical experts from OSHA, the

smelter companies and the United Steel Workers gives additional consideration to the final steps.

It is appropriate to consider a number of different factors in arriving at a determination of significant risk with respect to inorganic arsenic. The Supreme Court gave some general guidance as to the process to be followed. It indicated that the Secretary is to make the initial determination of the existence of a significant risk, but recognized that "while the Agency must support its finding that a certain level of risk exists with substantial evidence, we recognize that its determination that a particular level of risk is 'significant' will be based largely on policy considerations." (IUD v. API, 448 U.S. 655, 656, n. 62). In order for such a policy judgment to have a rational foundation, it is appropriate to consider such factors as quality of the underlying data, reasonableness of the risk assessment, statistical significance of the findings, the type of risk presented and the significance of the numerical risk relative to other risk factors.

The first factor is the quality of the underlying data. The underlying data upon which the risk assessments for inorganic arsenic are based are high quality epidemiological studies in an occupational environment. The studies by Lee and Fraumeni and by Pinto and Enterline involved workers exposed to inorganic arsenic in copper smelters. In the study by Ott et al., the workers studies were exposed to the pentavalent form of arsenic in a chemical manufacturing plant. These three studies have good follow up, generally reasonable exposure estimates and indicate that the risk was proportional to the degree of arsenic exposure. There are also a number of studies in other chemical industries and smelters reported in the literature and discussed in the preamble to the final standard, which demonstrated an increase in lung cancer among workers exposed to inorganic arsenic. However, the dose response data were not as well developed as in the studies used in the risk assessments upon which the agency has principally relied. The International Agency of Research on Cancer (IARC) has classified arsenic as a human carcinogen. Studies in animals have been equivocal as discussed in the preamble to the final standard, but arsenic is not at present a demonstrated animal carcinogen. This does not, however, contravene the human data as the translation of data from human to animal and vice versa is not always direct.

The second factor is the reasonableness of the risk assessment. Reasonable confidence can be placed in the estimates of the risk presented. In addition to the good exposure and response documentation, as discussed above the dose-response curves demonstrate a good fit of the linear model to the measured data, increasing confidence that a linear model through the origin is the appropriate model to use. It should be emphasized that the risk analyses are based on human data and not on animal data. Therefore, they do not have the uncertainties associated with extrapolating animal data to man.

The third factor is the concept of statistical significance. An experimenter considers an event "statistically significant" when the probability that the event would have occurred solely by chance is very low. This probability is called a "P value." A P value less than 0.05 (a commonly used value) implies that the relationship seen is the result of a causal action and not the result of a chance occurrence. There are several stages in the arsenic risk analysis where the statistical significance of the results can be calculated.

The first time that statistical significance is important is the determination in the individual studies that an excess risk from exposure to inorganic arsenic exists in the observed population. The statistical significance of the results is discussed in the preamble to the final standard and the results relied on are deemed to be statistically significant.

Another time is the determination of the statistical significance of the dose-response relationship. Using a standard statistical test (Student's t test) the dose-response relationships for the Lee and Fraumeni and for the Pinto and Enterline studies are highly significant (approximately the 0.001 level). While the P value for the Ott et al. study is not as significant as it is for the other two studies, there is still less than a 0.10 chance that the relationship seen would occur by chance.

Thus, the quality of the data and the analysis are high. In any event, they are higher than that needed to place reasonable confidence in the risk assessment predictions.

The fourth factor is the type of risk presented. The epidemiological evidence has clearly demonstrated that inorganic arsenic causes lung cancer in humans. Lung cancer is usually a fatal disease. It evades early detection and, according to the American Cancer Society, only about 9% of lung cancer patients live five or more years after diagnosis.

The fifth factor is the significance of the risk measured or predicted by the risk analysis. Briefly, measured data already in the inorganic arsenic record from the Lee and Fraumeni study show for long term employees (cohort 1 and 2, 15 or more years of exposure) a 455-567% excess risk (334-425 excess deaths from arsenic exposure per 1000 exposed employees) at 580 $\mu\text{g}/\text{m}^3$, a 150-210% excess risk (112-158 excess deaths per 1,000 employees) at 290 $\mu\text{g}/\text{m}^3$. The estimates from the risk analysis which OSHA believes are most reasonable, based on the data now before it are the following: The excess risk of lung cancer for a working lifetime of exposure is 500% to 620% (375 to 465 excess death per 1000 employees) at 500 $\mu\text{g}/\text{m}^3$, 50-68% excess risk (38 to 51 excess deaths per 1000) at 50 $\mu\text{g}/\text{m}^3$, and 10-14% excess risk (7.7-10 excess deaths per 1,000 employees) at 10 $\mu\text{g}/\text{m}^3$ of inorganic arsenic based on the linear model. An estimate of risk based on the quadratic model is 9.5% excess risk (7 deaths per 1,000 employees) at 50 $\mu\text{g}/\text{m}^3$ and 0.38% excess risk (0.3 excess deaths per 1,000 employees) at 10 $\mu\text{g}/\text{m}^3$. The linear model is preferable because it fits the data better and is recommended by the scientists who performed the risk assessments.

OSHA concludes that exposure to inorganic arsenic clearly presents a significant risk of harm at the 500 $\mu\text{g}/\text{m}^3$ level. As noted, the risk assessments estimate 375 to 465 excess deaths per 1,000 exposed workers for a working lifetime exposure (45 years) at 500 $\mu\text{g}/\text{m}^3$. These estimates indicate a very high risk of death at the level in the old standard and comport with the conclusion of the Ninth Circuit Court of Appeals in this case that "it is undisputed that exposure to inorganic arsenic at the level of 500 $\mu\text{g}/\text{m}^3$ *** poses a 'significant' health risk" (ASARCO v. OSHA, 78-1959, Memorandum, April 7, 1981, p. 3).

There appears to be little doubt that reducing exposures to inorganic arsenic from 500 $\mu\text{g}/\text{m}^3$ to 10 $\mu\text{g}/\text{m}^3$ will substantially lessen the level of risk of development of cancer. The most reasonable estimates predict that the reduction would be from 375-465 excess deaths per 1,000 exposed employees to 7.7-10 excess deaths per 1,000 exposed employees over a working lifetime. Confidence can be placed in the predicted lessening of risk since both the Lee and Fraumeni study, and the Pinto and Enterline study demonstrated dose-response relationships. (See the tables at 43 FR 19594-5). For example, measured data from the Lee and Fraumeni study indicates substantially

less excess risk at 290 $\mu\text{g}/\text{m}^3$ than at 580 $\mu\text{g}/\text{m}^3$. Clearly, lower exposure substantially reduces risk.

The linear model estimates a risk level of 7.7 to 10 excess cases of cancer per 1,000 exposed workers at the 10 $\mu\text{g}/\text{m}^3$ limit. OSHA's preliminary conclusion is that significant risk is not eliminated at this risk level and that a reasonable person would take steps to reduce it if feasible.*

Some guidance for this conclusion is presented by an examination of other occupational risk rates and legislative intent. For example, in the high risk occupations of fire fighting, and mining and quarrying, the average risk of death from an occupational injury or an acute occupationally related illness from a life time of employment (45 years) is 27.45 and 20.16 per 1000 employees respectively. Typical risk in occupations of average risk are 2.7 per 1000 for all manufacturing and 1.62 per 1000 for all service employment. Typical risks in occupations of relatively low risk are 0.48 per 1000 in electric equipment and 0.07 per 1000 in retail clothing. (These rates are derived from 1979 and 1980 Bureau of Labor Statistics data for employers with 11 or more employees adjusted to 45 years of employment for 46 weeks per year).

There are relatively little data on risk rates for occupational cancer, as distinguished from occupational injury and acute illness. The estimated cancer fatality rate from the maximum permissible occupational exposure to ionizing radiation is 17 to 29 per 1000. (47 years at 5 rems, Committee on the Biological Effects of Ionizing Radiation (BEIR) III predictions). However, most radiation standards (unlike OSHA standards) require that exposures be reduced to the lowest level reasonably achievable below the exposure limits (the ALARA principle). Approximately 95% of radiation workers have

exposures less than one-tenth the maximum permitted level. The risk at one-tenth the permitted level is 1.7 to 2.9 per 1000 exposed employees. (BEIR) II estimated are 30 to 60 per 1000 at 5 rem per year and 3 to 6 per 1000 at one-tenth that level.)

The linear model predicts a 7.7 to 10 per 1000 excess death rate from arsenic at 10 $\mu\text{g}/\text{m}^3$. This $\frac{1}{4}$ to $\frac{1}{2}$ the death rate in the riskiest occupations, 2 to 5 times higher than the risks in occupations of average risk, and 10 to 100 times the risk of the low risk occupations. It is also $\frac{1}{5}$ of the maximum permitted radiation cancer risk but about 3 times higher than the cancer risk which 95% of the radiation workers are under. It must also be noted that this risk of 7.7-10 per 1000 excess deaths due to lung cancer is in addition to the risk of accidental death in copper smelters of 8.69 per 1000 (1978-80 BLS data).

Congress passed the Occupational Safety and Health Act of 1970 because of a determination that occupational safety and health risks were too high. Based on this it is clear that Congress gave OSHA authority to reduce risks of average or above average magnitude when feasible. Therefore OSHA believes that the 10 $\mu\text{g}/\text{m}^3$ standard for arsenic, which should reduce risk from several hundred per thousand to approximately ten per thousand, is carrying out the Congressional intent within the limits of feasibility and does not attempt to reduce insignificant risks.

Under both Congressional intent and the Supreme Court rationale, OSHA could if it were feasible, seek to reduce risks below those estimated by the linear model at 10 $\mu\text{g}/\text{m}^3$. However, OSHA expects that there will be reduction of risk beyond that estimated using the mathematical model. The estimates do not take into account the other protective provisions (protective clothing, showers, clean lunch rooms, etc.) that will reduce exposure to arsenic in nonwork areas and during nonwork hours, reduce the possibility of arsenic ingestion, and ensure proper respiratory and bodily protection. With the 10 $\mu\text{g}/\text{m}^3$ level and these protective provisions lowering risks below the predicated level, OSHA concludes that its arsenic standard is protecting employees and that employers who fulfill the provisions of the standard will have taken all reasonable steps to protect their employees from the hazards presented by occupational exposure to inorganic arsenic.

OSHA is enforcing the standard protecting employees. The smelter employers to OSHA's knowledge have already taken substantial steps under

this standard to lower employee exposures to arsenic, and their cooperation with the United Steel Workers in the cooperative assessment will achieve employee protection in a cost effective manner. There are only a few smelter facilities where extensive efforts are needed to comply with the inorganic arsenic standard. OSHA suggested to those smelters and to the United Steel Workers of America which represents their employees, a cooperative evaluation by technical experts from OSHA, the smelter companies and the USW, to determine the appropriate control methodology to protect employees while maintaining the efficiency of the smelting industry. This suggestion was accepted and several evaluations have been completed. Through those cooperative evaluations, considerations of cost effectiveness and the feasibility of control technology in the specific smelter environment have been taken into account, employees are being promptly protected and all four analytic steps to rational standard setting are being carried out.

Public Participation

Written Comments

OSHA requests comments and supporting documentation on the issues raised in this notice. These issues are risk assessments on inorganic arsenic and the resulting degree of predicted risk, significance of that risk, and any adjustments to the standard that may be warranted by the evidence on the risk and its significance. Specifically, scientific and technical data and expert analysis and opinion are sought. The comments must be received by June 18, 1982 and submitted in quadruplicate to the Docket Officer, Docket H-037B, Room S-6212, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions reviewed will be made part of the record of this proceeding.

Oral Hearing

In addition to the request for written information, which should be submitted to the Docket Office, OSHA is providing an opportunity under section 6(b)(3) of the Act and 29 CFR Part 1911, to submit oral testimony concerning the specified issues at an informal public hearing scheduled to begin at 10 A.M., July 13, 1982, in the Auditorium, Frances Perkins Labor Department Building, 3rd Street

* This level of risk is also above the level at which the Supreme Court indicated a reasonable person might well consider the risk significant and take steps to decrease it. The Court stated, "It is the Agency's responsibility to determine in the first instance what it considers to be a 'significant' risk, some risks are plainly acceptable and other are plainly unacceptable. If, for example, the odds are one in a billion that a person will die from cancer by taking a drink of chlorinated water, the risk clearly could not be considered significant. On the other hand, if the odds are one in a thousand that regular inhalation of gasoline vapors that are two percent benzene will be fatal, a reasonable person might well consider the risk significant and take appropriate steps to decrease or eliminate it." (IUD v. API, 448 U.S. 655). The Supreme Court's language indicates that the examples given were of excess risk over a lifetime. It speaks of "regular inhalation" which implies that it takes place over a substantial period of time and refers to the "odds . . . that a person will die," obviously a once in a lifetime occurrence.

and Constitution Avenue, NW., Washington, D.C. 20210.

Notice of Intention to Appear

Persons desiring to participate at the hearing must file a notice of intention to appear in quadruplicate by June 18, 1982, with Mr. Tom Hall, OSHA, Division of Consumer Affairs, Room N3635, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523-8024.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Docket Office during business hours, must contain the following information:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and if so, a summary of the evidence to be adduced in support of the position.

Filing of Testimony and Evidence Before Hearing

Any party requesting more than 15 minutes for presentation at the hearing or submitting documentary evidence, must provide, in quadruplicate, the complete text of its testimony, and all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs, where they will be available for inspection and copying. This material must be received by June 18, 1982. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear and in light of the time available for the public hearing. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Conduct of Hearings

The hearings will commence at 10 A.M., July 13, 1982, with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR 1911, including the powers;

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections, and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means; and

5. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health.

The question of the risk from exposure to inorganic arsenic will be reviewed in light of all testimony and written submissions received as part of this record, and evidence already included in the inorganic arsenic record.

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This notice was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, Frances Perkins Labor Department Building, 3rd Street and Constitution Avenue, NW, Washington, D.C. 20210.

List of Index Terms in 29 CFR Part 1910

Arsenic, Occupational safety and health, Chemicals, Cancer, Health, Risk assessment.

(Secs. 6, and 8, of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911)

Signed at Washington, D.C. this 5th day of April, 1982.

Thorne G. Auchter,
Assistant Secretary of Labor.

[FR Doc. 82-9470 Filed 4-6-82; 8:45 am]
BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Surface Coal Mining and Reclamation Enforcement in Pennsylvania: Review of State Program Submission

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Reopening of public comment period.

SUMMARY: The Office of Surface Mining (OSM) is reopening the period for review and comment on the resubmission by Pennsylvania of its program for the regulation of surface coal mining and reclamation in the State. Specifically, OSM is reopening the comment period to allow the public sufficient time to consider and comment on revisions to the proposed program submitted by Pennsylvania.

DATE: Written comments, data or other relevant information relating to Pennsylvania's revisions to its proposed program submission must be received on or before 4:00 p.m., May 10, 1982, to be considered.

ADDRESSES: Comments on Pennsylvania's revisions to its proposed program should be sent or hand-delivered to: Office of Surface Mining Reclamation Enforcement, Office of the Field Solicitor, Second Floor, 603 Morris Street, Charleston, West Virginia 25301, (Attention: Pennsylvania Administrative Record).

The Pennsylvania proposed program and the proposed revisions are available for public inspection at the OSM address above, the Pennsylvania Department of Environmental Resources (DER), Fulton Bank Building, Tenth Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120, Telephone: (717) 787-4686, and other OSM and DER field locations in Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Patrick Boggs, Regional Director, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301; Telephone: (304) 347-7175.

SUPPLEMENTARY INFORMATION: On January 29, 1982, at 47 FR 4318-4320, OSM published a notice in the Federal Register announcing a public hearing and public comment period on the resubmitted Pennsylvania program. The public hearing was held in Harrisburg, Pennsylvania, on February 25, 1982, and the public comment period on the resubmission closed at 4:00 p.m. on March 3, 1982.

On April 9, 1982, Pennsylvania submitted to OSM revisions to its proposed program. These revisions have been in Commonwealth rulemaking since February 6, 1982, and the Commonwealth has conducted two public hearings on these proposed revisions. One hearing was held in Johnstown, Pennsylvania, on March 2, 1982, and a second was held in Harrisburg, Pennsylvania, on March 4, 1982. Also, on April 9, 1982, Pennsylvania submitted further revisions to its proposed program which will be recommended to the Pennsylvania Department of Environmental Resources' Environmental Quality Board for consideration at its meeting on April 20, 1982. The proposed revisions to the programs and the further revisions being recommended to the Environmental Quality Board have been placed in the Pennsylvania Administrative Record, PA No. 321.

Thus, OSM is reopening the public comment period until 4:00 p.m., May 10, 1982, to allow the public sufficient time to review and comment on the above cited Administrative Record material and to allow the public sufficient time after the Environmental Quality Board's meeting on April 20, 1982, to consider and comment on the actions taken by the Board.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 5, 1982.
 J. S. Griles,
 Director, Office of Surface Mining.

[FR Doc. 82-9637 Filed 4-8-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2098-7]

Approval and Promulgation of Implementation Plans; Ohio; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Extension of public comment period.

SUMMARY: On February 23, 1982 (47 FR 7856), USEPA proposed to revise the sulfur dioxide (SO₂) emissions limitations in the federally promulgated Ohio State Implementation Plan (SIP) for the Ohio Power Company Gavin plant in Gallia County, Ohio. At that time, a 30-day public comment period was provided. However, in response to the State of Connecticut's request, the public comment period is extended to April 26, 1982.

DATE: Comments must be received on or before Thursday, April 26, 1982. If possible please send an original and four copies.

ADDRESS: Comments should be submitted to: Gary Gulezian, Chief, Regulatory Analysis Section, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at (312) 886-6088.

Dated: March 29, 1982.

Valdas V. Adamkus,
 Regional Administrator.

[FR Doc. 82-9826 Filed 4-8-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 122

[WEN-2-FRL-2095-3]

Reconsideration of Effluent Limitations; Caribbean Rum Distilling

AGENCY: Environmental Protection Agency [EPA].

ACTION: Notice; request for comments.

SUMMARY: In response to requests from the Virgin Islands Rum Industries, Ltd. (VIRIL) and Puerto Rico Distillers, Inc. (PRD) for reconsideration of National Pollutant Discharge Elimination System (NPDES) effluent limitations for the discharge of rum distillery wastes, the United States Environmental Protection Agency (EPA) is today soliciting comments on whether it should grant or deny said requests for alternative effluent limitations.

COMMENT DATE: Comments received on or before May 24, 1982 will be considered in EPA's determination concerning the VIRIL and PRD requests.

ADDRESS: Send comments to the attention of Conrad Simon, Director, Water Management Division, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, with a copy to Mr. Clevenger at the address specified below.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Langone, Water Management Division, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278, [212] 284-9876. Mr. Weems Clevenger, Director, EPA Caribbean Office, Stop 8-1/2 Ave. Fernandez Juncos, P.O. Box 792, San Juan, Puerto Rico 00902, [809] 725-7825.

SUPPLEMENTARY INFORMATION: In 1974-1975, EPA, Region II, in the absence of effluent limitations guidelines, issued NPDES permits to four rum distilleries in Puerto Rico and two rum distilleries in the Virgin Islands. The effluent limitations imposed in these permits were based upon the use of evaporative by-product recovery or biological treatment to achieve a Biochemical Oxygen Demand (BOD) reduction of 94%.

The terms of some of these permits were contested in adjudicatory hearings. The Bacardi Corp. agreed to the terms of its permit. One adjudicatory hearing was settled in 1976 when Destileria Serralles agreed to the land application of its wastewater and no longer required an NPDES permit. A consolidated adjudicatory hearing was commenced in July 1977 at the request of PRD and VIRIL, (as well as a third distillery whose assets were subsequently purchased by the Bacardi Corp.).

These adjudicatory hearings were suspended in 1977 and settlement negotiations resumed. One treatment alternative, evaporative by-product recovery, was eliminated during these negotiations since high energy costs and the lack of a local by-product market established biological treatment (anaerobic/aerobic digestion) as a preferable alternative.

A 1979 settlement was reached whereby PRD and VIRIL agreed to meet requirements for removal of 70% of the BOD in their waste waters. Pursuant to the terms of a Consent Judgment filed in U. S. District Court, District of Puerto Rico in October, 1979, a new permit was issued to the Bacardi Corp. with terms substantially similar to, although slightly more stringent (75% removal of BOD) than, those agreed upon by PRD and VIRIL. These effluent limitations were to be achieved by anaerobic treatment (without a subsequent aerobic treatment step) with certain optional in-process changes (such as molasses clarification).

PRD and VIRIL proceeded with the engineering designs of their treatment systems; Bacardi commenced construction of the first stage of its treatment system.

Requests for reconsideration of treatment requirements were submitted

to the EPA Administrator by VIRIL (on July 13, 1981, as amended December 7, 1981) and PRD (on October 19, 1981, as amended, December 4, 1981) prior to commencement of construction of major treatment facility segments. Copies of the requests are available in the EPA Region II offices at the addresses shown above.

The requests argue that the Clean Water Act allows EPA when establishing effluent limitations for the Best Practicable Control Technology Currently Available (BPT) to consider the cost of treatment in relation to the water quality benefits which might result from such treatment. Moreover, these requests allege that untreated wastewater discharges from the rum distilling process will not be harmful to the marine environment if properly diffused in deep ocean waters as opposed to continued near shore disposal and that, therefore, the current treatment requirements would not be cost-effective. These requests further allege that changed economic circumstances since the agreements were reached in 1979 have rendered the agreements economically infeasible in Puerto Rico and the Virgin Islands. The proposed Caribbean Basin Initiative which may result in the elimination of the import duties on rum from foreign Caribbean countries which do not have similar treatment requirements is cited as an example of such changed economic circumstances.

Submission of Comments

EPA is soliciting comments on whether it should grant or deny the requests.

EPA particularly solicits comments on the following factual issues:

1. To what extent, if any, do changed economic circumstances since 1979, including the proposed Caribbean Basin Initiative, merit reconsideration of treatment requirements?
2. Should the present treatment requirements of 70-75% BOD reduction be maintained? If so, what outfall structure should be employed with this treatment requirement (e.g. diffusion with deep ocean outfall)?
3. To what extent could in process changes (such as molasses clarification) with resultant BOD reduction of 10-15%, together with diffusion with deep ocean outfall, be considered sufficient to satisfy water quality needs in receiving waters?
4. Would some variant of the above options present a satisfactory alternative?
5. What is the earliest practicable date for final compliance with each of

the above alternatives; at what estimated costs?

List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Dated: March 18, 1982.

Jacqueline E. Schafer,
Regional Administrator.

[FR Doc. 82-8733 Filed 4-8-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 122, 123, 124 and 146

[WH-6-FRL-2095-4]

Arkansas Department of Pollution Control and Ecology; Underground Injection Control; Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the Arkansas Department of Pollution Control and Ecology requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Arkansas Department of Pollution Control and Ecology to regulate Class I, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by May 6, 1982; public hearing will be held May 13, 1982, 10:00 a.m. The public comment period closes on May 20, 1982. Comments must be received by that date.

ADDRESSES: Comments and requests to testify may be mailed to Shirley Augurson, Groundwater Protection Section, Environmental Protection

Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270. Copies of the application and pertinent material are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region VI, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767-7341

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, (501) 562-7444 Ext. 177

The hearing will be held at the Arkansas Game and Fish Commission Auditorium, #2 Natural Resources Drive, Little Rock, Arkansas.

FOR FURTHER INFORMATION CONTACT: Shirley Augurson, Groundwater Protection Section, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the Arkansas Department of Pollution Control and Ecology is for the regulation of all injection wells in Arkansas, excluding those associated with oil and gas production (Class II). Some of the wells covered in the application (i.e., Class V bromine related brine disposal wells) are under the regulatory jurisdiction of the Arkansas Oil and Gas Commission. A Memorandum of Understanding between the Arkansas Department of Pollution Control and Ecology and the Arkansas Oil and Gas Commission describes each Agency's program responsibilities and is a pertinent part of this application. The application includes a description of the State Underground Injection Control program, copies of all applicable rules and forms, a statement of legal authority, and a memorandum of agreement between the Arkansas Department of Pollution Control and Ecology and the Region IV, Environmental Protection Agency.

List of Subjects in 40 CFR

Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Part 123

Hazardous materials, Indian—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations,

Penalties, Confidential business information.

Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Water pollution control, Water supply, Indians—lands.

Part 146

Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water supply.

Dated: April 2, 1982.
Frederic A. Eidsness, Jr.,
Assistant Administrator for Water.

[FR Doc. 82-9726 Filed 4-8-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 421

Medicare Program; Assignment and Reassignment of Home Health Agencies to Designated Regional Intermediaries

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to modify Medicare regulations to require that all freestanding home health agencies (HHA's) serviced by a nominated intermediary be serviced by a regional intermediary designated by HCFA. One intermediary would be designated to service freestanding HHA's in each state.

These proposed regulations would implement Section 1816(e)(4) of the Social Security Act (as added by Section 930(o) of the Omnibus Reconciliation Act of 1980, Pub. L. 96-499), which requires the Secretary to designate regional agencies or organizations to perform intermediary functions for home health agencies. The publication of the regulations also complies with a court order. This proposal would improve the administration of the home health benefit under the Medicare program.

DATE: To assure consideration, comments should be mailed on or before May 10, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G Hubert H.

Humphrey Building, 200 Independence Ave. SW., Washington, D.C., or to Room 793, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPO-29-P. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave. SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Norman Fairhurst, (301) 594-9498.

SUPPLEMENTARY INFORMATION:

I. Background

In the Medicare program, the Secretary is responsible for making payment to a provider of services (such as a home health agency (HHA)) for the covered services it furnishes to Medicare beneficiaries, either through a fiscal intermediary or by HCFA directly through its Office of Direct Reimbursement (ODR).

The wide dispersion of HHAs, their low volume of bills and the small number of HHAs per intermediary are factors that significantly diminish optimum efficiency and effectiveness in administering the HHA part of the Medicare program. Moreover, there has been concern for some time regarding the inadequate monitoring and auditing of HHA costs. In testimony before the Senate Special Committee on Aging and the House Subcommittee on Oversight and Health on March 9, 1977, the Department took the position that the Secretary be allowed to establish either a single national intermediary or a series of regional intermediaries to service HHAs.

Section 14 of Public Law 95-142, enacted as a result of these and other hearings, amended Section 1816 of the Social Security Act and authorized the Secretary to assign and reassign providers to intermediaries and to designate regional intermediaries or a national intermediary with respect to a class of providers (Section 1816(e)(1) and (2) of the Act). As a result of this legislation, HCFA developed a proposal for consolidating HHA workloads among fewer intermediaries.

Section 930(o) of the Omnibus Reconciliation Act of 1980 added a new paragraph (4) to Section 1816(e) of the Act. This section requires the Secretary to designate regional agencies or

organizations (that is, fiscal intermediaries) that have entered into an agreement with him under Section 1816 of the Act to perform functions under that agreement for freestanding HHAs in the region. The statute requires that if an HHA is a subdivision of a hospital (that is, the HHA and hospital are under common control or are affiliated), the Secretary shall assign that HHA to a regional intermediary only under the following condition: The Secretary, after applying published criteria relating to administrative efficiency and effectiveness, determines that the assignment would result in the more effective and efficient administration of the Medicare program.

In late 1980, HCFA circulated its initial draft HHA intermediary consolidation proposal to providers, intermediaries, regional offices and other HCFA representatives, the National Association of Home Health Agencies, the National League for Nursing and the Fiscal Intermediary Group. After considering comments from these entities, we notified HHAs in December of 1981, through their intermediaries and the Office of Direct Reimbursement (ODR), the HCFA component that services direct-dealing providers, of the name of the designated regional intermediaries and the transition schedule.

However, on March 10, 1982, we were permanently enjoined, by the U.S. District Court for the District of Columbia, from transferring freestanding HHAs serviced by ODR to regional intermediaries. The Court also required us to publish within 30 days a proposed rule concerning the transfer of freestanding HHA's that have elected to be serviced by an intermediary to the regional intermediaries. That have been designated by the Department.

These proposed regulations comply with the court order to publish proposed rules and they would implement Section 1816(e)(4) of the Act.

II. Provisions of the Regulations

We are proposing in these regulations to require all freestanding HHAs that have elected to be serviced by an intermediary under 42 CFR 421.103, to be serviced by a regional intermediary designated by HCFA. We would add a new section to Medicare regulations, 42 CFR 421.117, to state this requirement.

The major policy provisions behind these proposed regulations are, basically, those stated in the notification to HHAs in December 1981. They are as follows:

A. One intermediary would be designated to service freestanding HHAs in each State.

We believe the designation of statewide regional HHA intermediaries would achieve the goal of both Congress and HCFA to improve the administration of the home health benefit under the Medicare program. Consolidating the workload of freestanding HHAs under a single intermediary in each State should improve management and consistency of coverage and reimbursement determinations for HHAs. The use of statewide intermediaries would also facilitate onsite review of HHAs by the intermediaries. This review has proven to be a significant tool for assuring improved reimbursement determinations and controlling overutilization and overpayments that have been of concern to HCFA and the Congress. Consistent application of Medicare policies with respect to HHAs within each State would enhance delivery of necessary services by providing a consistent approach to medical policy interpretation and reimbursement for providers, beneficiaries and the home health community.

The designation of one intermediary per State would be in keeping with our long range goals of reducing the number of intermediaries in the Medicare program and of consolidating all intermediary workload in each State with one intermediary.

The criteria used for selecting intermediaries would include past performance and the ability of the intermediary to assume additional workload.

Approximately 16 percent of HHAs participating in the Medicare program would be reassigned to another intermediary as a result of implementation of these regulations. The number of intermediaries servicing freestanding HHAs would be reduced from 72 to 49. (No HHA intermediary would be designated for Puerto Rico or the Virgin Islands because of the proposed competitive fixed-price experiment to select a single organization to service their entire Medicare workload.) In only 8 States would there be a major shift of the State's HHAs to a new intermediary (Arizona, California, Florida, Ohio, Pennsylvania, Texas, Washington, West Virginia). In the remaining States, the designated intermediary already services all or most of the freestanding HHAs not serviced by ODR. The implementation procedures we have developed have been designed to assure a smooth transition to the new intermediaries.

B. There would be no alternative to the designated intermediaries for freestanding HHAs. All HHAs wishing

to be serviced by an intermediary, including members of HHAs chains, would be serviced by the designated intermediary. Because of a court order HHAs serviced by ODR may continue with ODR or elect to be serviced by the designated regional intermediary.

C. HHAs in multi-State chain organizations would have to deal with designated State intermediaries to assure uniform treatment of HHAs in each State. However, we recognize that there may be cases in which the degree of centralization of the chain would make such a policy less efficient in terms of cost report settlement. In these cases, it would be more efficient for a lead intermediary to handle the home office audit and desk review of all provider cost reports, determine the scope of provider audits, and perform final settlement of individual HHA cost reports. The designated intermediaries would have responsibility for provider reimbursement throughout the year based on necessary input from the lead intermediary, provide input to the lead intermediary in terms of provider audit and cost report settlement, and perform actual field audit work required.

Chains wishing to avail themselves of the exception would have to present their request in writing to the regional office serving their home office. The request would have to provide information concerning their degree of centralization such as is now required for a single intermediary to service an entire chain of any type. The regional office would evaluate each request and notify the chain in writing of HCFA's determination.

D. Hospital-based HHAs would continue to be serviced by the intermediary servicing the parent provider regardless of whether it is the designated intermediary. However, we would ask intermediaries servicing hospital-based HHAs to use the coverage and utilization screens of the designated State intermediary to promote statewide consistency.

E. We are also proposing to amend the definition of intermediary in § 421.3 to show that a Blue Cross Plan which has entered into a subcontract, approved by the Administrator, with the Blue Cross Association to perform intermediary functions may be designated as a regional intermediary.

F. We also propose amending § 421.128 to show that, under Section 1816(e)(4) of the Act, an intermediary that would lose providers to a regional intermediary would not have the right to appeal any adverse effect caused by the reassignment of HHAs to another

intermediary or by the designation of regional intermediaries for HHAs.

III. Implementation

A. *Assurance of cash flow.* HCFA intends to make every effort to assure that there would be no interruption of cash flow to HHAs. We would work closely with the designated intermediary and HHAs to identify and resolve problems that could potentially interrupt the HHAs' cash flow.

B. *Scheduling of reassignments.* We plan to begin transferring freestanding HHAs to their designated intermediaries on September 1, 1982. The transfer would be based on provider cost report year ending dates with the exception of the September 1 transfer. This transfer would include those providers with year-ending dates of June 30, July 31, and August 31.

We propose completing the majority of the reassignments to designated intermediaries this calendar year. Fifty-one percent of the HHAs were reassigned between January 1 and March 1; another 26 percent were scheduled to transfer July 1 through September 1, and an additional 14 percent were scheduled to transfer between October 1 and December 1. By including the HHAs with June and July year-ending dates in the September 1 reassignment we would still meet this goal. The remaining 9 percent (the 35 HHAs having fiscal year-ending dates in March through May) would be phased in next year.

The original reassignment of freestanding HHAs to the designated intermediaries (based on provider cost reporting year ending dates) began January 1, 1982. Any HHA that has already begun or completed the transfer of its workload to the regional intermediary may continue to be serviced by the regional intermediary or may transfer its workload back to its original intermediary until the new scheduled transition date. HHAs that formerly were serviced by ODR and transferred to a regional intermediary may transfer their workloads back to ODR or may remain with the regional intermediary.

C. *Compensation for transition costs.* Effective with cost reporting periods beginning on or after July 1, 1979, limits have been established on the reimbursable cost per visit for each type of home health service although such limits are applied to the aggregate costs of the HHA. As provided in 42 CFR § 405.460(f)(2), limits may be adjusted upward for a provider that shows that it incurred higher costs due to extraordinary circumstances beyond its control. Where a HHA's costs exceed

the limits as the result of the mandatory reassignment of the HHA to another intermediary, an exception would be granted under this general category, provided that the costs are reasonable, attributable to the circumstances specified, separately identified by the provider, and verified by its intermediary.

D. *List of Designated Regional Intermediaries.* Below is the list of intermediaries we propose to designate as the regional intermediaries. Except as noted below, each HHA would be serviced by the intermediary in its State.

Alabama—Blue Cross and Blue Shield of Alabama
Alaska—Blue Cross and Blue Shield of Washington and Alaska
Arizona—Aetna Life and Casualty
Arkansas—Arkansas Blue Cross and Blue Shield, Inc.
California—Blue Cross of Southern California
Colorado—Blue Cross of Colorado
Connecticut—Blue Cross and Blue Shield of Connecticut, Inc.
Delaware—Blue Cross of Delaware
District of Columbia—Group Hospitalization, Inc. (Washington, D.C.)
Florida—Aetna Life and Casualty (Clearwater, Florida)
Georgia—Blue Cross of Georgia/Columbus, Inc.
Hawaii—Hawaii Medical Service Association
Idaho—Blue Cross of Idaho Health Services
Illinois—Health Care Service Corporation (Chicago, Ill.)
Indiana—Mutual Hospital Insurance, Inc. (Indianapolis, Ind.)
Iowa—Blue Cross of Iowa, Inc.
Kansas—Blue Cross of Kansas, Inc.
Kentucky—Blue Cross and Blue Shield of Kentucky, Inc.
Louisiana—Blue Cross of Louisiana
Maine—Associated Hospital Service of Maine
Maryland—Blue Cross of Maryland, Inc.
Massachusetts—Blue Cross of Massachusetts, Inc.
Michigan—Blue Cross and Blue Shield of Michigan
Minnesota—Blue Cross and Blue Shield of Minnesota
Mississippi—Blue Cross and Blue Shield of Mississippi, Inc.
Missouri—Blue Cross Hospital Service, Inc. of Missouri (St. Louis, Missouri)
Montana—Blue Cross of Montana
Nebraska—Mutual of Omaha Insurance Company
Nevada—Aetna Life and Casualty (Reno, Nevada)
New Hampshire—New Hampshire-Vermont Health Services, Inc.

New Jersey—The Prudential Insurance Company of America
New Mexico—New Mexico Blue Cross and Blue Shield, Inc.
New York—Blue Cross and Blue Shield of Greater New York
North Carolina—Blue Cross and Blue Shield of North Carolina
North Dakota—Blue Cross of North Dakota
Ohio—Hospital Care Corporation (Cincinnati, Ohio)
Oklahoma—Blue Cross and Blue Shield of Oklahoma
Oregon—Blue Cross of Oregon
Pennsylvania—Blue Cross of Greater Philadelphia
Puerto Rico—none
Rhode Island—Hospital Service Corporation of Rhode Island
South Carolina—Blue Cross and Blue Shield of South Carolina
South Dakota—Blue Cross of Western Iowa and South Dakota
Tennessee—Blue Cross and Blue Shield of Tennessee (Chattanooga, Tennessee)
Texas—Group Hospital Service, Inc. (Dallas, Texas)
Utah—Blue Cross of Utah
Vermont—New Hampshire-Vermont Health Services, Inc.
Virginia—Blue Cross of Southwestern Virginia (Roanoke, Virginia)
Virgin Islands—none
Washington—Blue Cross of Washington and Alaska
West Virginia—Blue Cross Hospital Service, Inc. (Charleston, West Virginia)
Wisconsin—Blue Cross/Blue Shield United of Wisconsin
Wyoming—Blue Cross of Wyoming

HHAs in Puerto Rico and the Virgin Islands, as well as hospital-affiliated HHAs, are not being reassigned, as explained above in section II. In addition, the designated intermediaries would service HHAs across State lines in keeping with their longstanding service areas in the following cases:

- Group Health, Inc.—services the District of Columbia; Prince Georges and Montgomery Counties in Maryland; Arlington County, Fairfax County, and the cities of Alexandria, Falls Church and Fairfax in Virginia.
- Blue Cross of Western Iowa and South Dakota—services all of South Dakota and 26 counties in Iowa.
- Oregon Blue Cross—services Oregon and Clark County in Washington, a suburb of Portland.
- St. Louis Blue Cross—services Missouri, and Johnson and Wyanadotte Counties in Kansas.

These service areas do not overlap with those of other designated

intermediaries and thus meet the intent of the legislative mandate in Pub. L. 96-499.

Kaiser, Inc. would continue to service its one freestanding and three hospital-affiliated HHAs pending a decision on its role as an intermediary.

IV. Impact Analyses

A. Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule", as defined by section 1(b) of Executive Order 12291.

That is, the proposed regulations would not—

- Have an annual effect on the economy of \$100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic import markets.

We expect some one-time transition/implementation costs; however, the long-range impact of these regulations would be one of improved program effectiveness.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 603(a), requires that a Federal agency prepare, and make available to the public, an Initial Regulatory Flexibility Analysis (IRFA) when it publishes a proposed rule that would have a significant economic impact on a substantial number of small businesses or other small entities.

Some HHAs may be defined as small businesses, but these regulations would not adversely affect a significant number, with respect to economic impact under the Regulatory Flexibility Act. Therefore, no IRFA is required.

List of Subjects in 42 CFR Part 421

Administrative practice and procedure, Contracts (Agreements), Courts, Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Information (Disclosure), Lawyer, Medicare, Professional Standards Review Organizations (PSRO), Reporting requirements.

PART 421—INTERMEDIARIES AND CARRIERS

42 CFR Part 421, is amended as set forth below.

1. The authority citation for Part 421 is revised to read as follows:

Authority: Secs. 1102, 1815, 1816, 1842, 1861(u), 1871, 1874 and 1975 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b-1).

2. In the Table of Contents for Subpart B, a new § 421.117 is added as follows:

Subpart B—Intermediaries

* * * * *

Sec.
421.117 Designation of regional intermediaries for freestanding home health agencies.

* * * * *

3. Section 421.3 is amended by revising the definition of "intermediary" to read as follows:

§ 421.3 Definitions

* * * * *

"Intermediary" means an organization that has entered into an agreement with the Administrator to perform designated functions in the administration of the Medicare program.

For purposes of designating regional intermediaries for freestanding home health agencies under § 421.117 as well as for applying the performance criteria in § 421.120 and the statistical standards in § 421.122 and any adverse action resulting from such application, the term intermediary also means a Blue Cross Plan which has entered into a subcontract approved by the Administrator with the Blue Cross Association to perform intermediary functions.

* * * * *

4. Section 421.117 is added to read as follows:

§ 421.117 Designation of Regional Intermediaries for Freestanding Home Health Agencies.

(a) This section is based on section 1816(e)(4) of the Social Security Act, which requires the Secretary designate regional intermediaries for freestanding home health agencies (HHAs).

(b) Freestanding HHAs that elect to receive payment for covered services furnished to Medicare beneficiaries through an intermediary under § 421.103(b) of this subpart must receive payment through a regional intermediary designated by HCFA.

5. Section 421.128 is amended by adding a new paragraph (f) to read as follows:

§ 421.128 Intermediary's opportunity for a hearing and right to judicial review.

* * * * *

(f) Exception. An intermediary adversely affected by the designation of a regional intermediary under § 421.117 of this subpart is not entitled to a hearing or judicial review concerning

adverse effects caused by the designation of a regional intermediary.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance)

Dated: April 5, 1982.

Carolyn K. Davis,
Administrator, Health Care Financing
Administration.

Approved: April 5, 1982.

Richard S. Schweiker,
Secretary.

[FR Doc. 82-9739 Filed 4-8-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6247]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 82-3785, appearing at page 6664 in the issue of Tuesday, February 16, 1982, make the following changes:

1. On Page 6668, the thirteenth entry in the "Location" column should read, "Just upstream of County Road 600 South".

2. On Page 6670, the seventeenth from last entry in the last column should read, "940".

BILLING CODE 1505-01-M

44 CFR Part 67

[Docket No. FEMA-6216]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Arkansas, et al.

Correction

In FR Doc. 81-36278, appearing at page 61898, in the issue of Monday, December 21, 1981, make the following changes:

1. On page 61899, the seventh entry in the last column should read, "1001".

2. On page 61899, the entry "Rockbrook Creek," now appearing in the "Location" column, should be moved to the "Source of Flooding" column.

3. On page 61899, the twentieth from last entry in the "Location" column should read, "Just downstream of 168th Street".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286; FCC 82-143]

Actions of the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and recommended order.

SUMMARY: The Federal-State Joint Board recommends the adoption of an amendment to the Addendum to the Separations Manual phasing customer premises equipment (CPE) out of separations. The amendment would allow any state to adopt an early freeze date for the calculations of the CPE base amount.

DATES: Comments are due by April 9, 1982 and replies by April 20, 1982.

ADDRESS: Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Aileen Amarandos, Policy and Program Planning Division, Common Carrier Bureau at (202) 632-9342.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 67 of the Commission's rules and establishment of a Joint Board.

Second Further Notice of Proposed Rulemaking

Adopted: March 25, 1982.

Released: March 30, 1982.

1. In June, 1980, pursuant to Section 410(c) of the Communication Act, the Commission established a Joint Board in this proceeding to recommend, among other things, changes to the Separations process consistent with our decision to detariff customer premises equipment (CPE) ¹ on January 1, 1983. On November 18, 1981, the Joint Board adopted a plan for phasing CPE out of the Jurisdictional Separations process. Recommended Decision and Order, FCC 81-566 (released December 14, 1981). This recommendation, with minor modifications, was adopted by the Commission on February 24, 1982. Decision and Order, FCC 82-98 (released February 26, 1982).

2. At a separate meeting on February 24, 1982, the Joint Board adopted a Recommended Order, FCC 82-116 (released March 11, 1982), suggesting an amendment to the CPE Separations plan

approved by the Commission. The amendment would allow individual states to approve or mandate an early freeze date for the identification of the CPE base amount by carriers under its jurisdiction so that programs for the sale of terminal equipment may be initiated prior to January 1, 1983. The precise wording of the proposed amendment is set forth in Appendix A to the Recommended Order.

3. We believe that the amendment may serve the public interest if it would significantly enhance the availability of terminal equipment for sale prior to January 1, 1983 or ease the administrative burdens of implementing the Commission's detariffing policies. However, we are concerned that such an amendment, though adopted as a transitional measure, may create an unnecessary or undue disturbance of the essential uniformity of separations procedures or inequities among states or carriers. Therefore, we invite comments from interested persons on the relative merits and shortcomings of the proposed amendment.

4. While comments may address any and all relevant matters regarding the amendment, the following questions may help to focus the analysis:

a. What is the extent of interest, on the parts of both local telephone companies and state regulatory commissions, in the initiation of sale programs prior to January 1, 1983?

b. In what ways would the adoption of this amendment assist or hinder state regulatory commissions in the use of administratively efficient procedures to deregulate CPE for all local carriers?

c. Can or should the Commission adopt this amendment as a transitional measure without weakening the general standard of uniformity of separations procedures?

d. What would be the impact on states and carriers that did not opt for an early freeze date if other states and carriers did?

e. Would any implementation problems result if a particular state established separate freeze dates for different carriers? Should the amendment provide that each state is allowed only one early freeze date for all participating carriers under its jurisdiction?

5. Until further notice, proceedings in this Docket before the Commission are governed by the Commission's *Ex Parte* Rules for nonrestricted informal rulemaking proceedings. See 82 FCC 2d 157 (1980). In non-restricted informal rulemaking proceedings *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice

is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231. The Commission's rules governing non-restricted informal rulemaking proceedings also apply, with certain exceptions, to proceedings in this Docket before the Joint Board. However, on February 24, 1982, the Joint Board adopted supplemental *ex parte* procedures to govern its proceedings in this Docket. Order, FCC 82-106 (released March 5, 1982). These supplemental requirements do not apply to Commission review of Joint Board recommendations.

6. Accordingly, it is ordered, that comments concerning the Joint Board's Recommended Order involving an amendment to the CPE separations plan are to be filed no later than April 9, 1982. Replies are to be filed no later than April 20, 1982. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. At is further ordered, that the Secretary shall cause this Second Further Notice of Proposed Rulemaking

¹ See *The Second Computer Inquiry*, 77 FCC 2d 384 (1980), modified on reconsideration, 84 FCC 2d 50 (1980), further reconsideration, 88 FCC 2d 512 (1981), appeal pending sub. nom. *CCIA v. FCC*, Case No. 80-1471 (D.C. Cir. 1980).

as well as the Joint Board's Recommended Order regarding an amendment to the CPE separations plan to be published in the Federal Register.

List of Subjects in 47 CFR Part 67

Communications common carriers.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Recommended Order

Adopted: February 24, 1982.

Released: March 12, 1982.

By the Federal-State Joint Board. Chairman Fowler issuing a separate statement.

In the matter of amendment of Part 67 of the Commission's rules and establishment of a Joint Board.

1. On February 24, 1982, the Commission adopted a Decision and Order, FCC 82-98 (released February 26, 1982), in which it approved, with minor technical modifications, the Recommended Decision and Order, FCC 81-566 (released December 14, 1981) issued by this Joint Board proposing a plan for the phased removal of customer premises equipment (CPE) from the separations process.

2. Under the plan, as adopted by the Commission, a base amount of embedded CPE investment will be identified by each local carrier on January 1, 1983, the implementation date of the Commission's bifurcated detariffing schedule for CPE.¹ This base amount, to be used for separations purposes, will be reduced at the rate of one-sixtieth per month for a maximum period of five years. The plan would result in the same gradual reduction of interstate contributions related to CPE for all local carriers. The plan is designed to achieve two important goals. First, it will protect local ratepayers by preventing sudden and burdensome rate increases while the industry makes the transition to competitive markets for all CPE. Second, it will establish conditions that will promote rather than impede the Commission's detariffing objectives under the Second Computer Inquiry and aid in the implementation of that decision.

3. An amendment to this plan has been proposed by Commissioner Gravelle of California. This amendment would permit any State to approve the use of an early freeze date for the identification of the CPE base amount

by individual carriers that may initiate programs for the sale of terminal equipment pursuant to State approval or direction before January 1, 1983. The precise wording of the proposed amendment is set forth in Appendix A to this Recommended Order.

4. We believe that adoption of this amendment would be fully consonant with the goals the Commission seeks to achieve in requiring the gradual removal of CPE related costs from separations. Moreover, the amendment would further promote the Commission's objective of achieving full competition in CPE markets by permitting CPE sale programs to go into effect as soon as possible, when such accelerated schedules are administratively feasible and desirable. Since it appears that the opportunity for an early freeze date may be welcomed in several States,² and since the public interest would not be served by unnecessary delay in the initiation of CPE sales programs, we believe the amendment is appropriate.

5. Accordingly, it is ordered that the Amendment to the Addendum to the Separations Manual set forth in Appendix A, is adopted, as a Recommended Order.

The Federal-State Joint Board.³

Mark S. Fowler,
Chairman.

Appendix A

Amendment to the Addendum to the Separations Manual

Immediately preceding the last sentence of the paragraph entitled "GENERAL": Insert the following:

If so directed or authorized by an administratively and judicially final order or action issued or taken by the State Commission having jurisdiction in any state, a freeze date earlier than December 31, 1982 may be adopted for any company operating within the state. The amount of investment recorded for separations purposes as of that freeze date shall be deemed to be the amount of investment to be used for separations until January 1, 1983. Thereafter, the provision of this Manual addendum shall apply as set forth hereafter. Expenses and reserves shall be frozen as of the plant freeze date in a manner consistent with the addendum.

Separate Statement of Chairman Mark S. Fowler

In Re: Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286

The Joint Board has voted to amend the CPE separations plan that was adopted by the Commission on February 24, 1982. The amendment would permit individual states to approve an early freeze date for CPE base amounts for particular companies under their jurisdiction. This amendment is an attempt to accommodate the interests of those states that are ready to press ahead with terminal equipment sale programs in cooperation with local telephone companies, and to assure the most efficient implementation of the Commission's detariffing policies. I support the goals of the amendment because I realize that, without it, many states and telephone companies may perceive it to be in their best interest to defer the initiation of sale programs until January 1, 1983, when the separations phase-out plan goes into effect. The creation of incentives for delay would be an unfortunate result of a separations plan that is intended to remove such incentives.

However, the amendment would, for the first time, introduce an element of state autonomy into the separations process. I think it is crucial to make clear that approval of such a solution would not put a chink in the basic uniformity of the separations process. Maintenance of uniformity is essential, and exceptions from standard separations procedures should not generally be considered. The transitional circumstances under which this amendment may be adopted by the Commission are unique. Whatever deviation from uniformity is sanctioned can be warranted only as a temporary and interim step to facilitate the achievement of long-term objectives.

Therefore, in the spirit of cooperation between state and federal parties, and in recognition that this one-time action may further promote the development of competitive CPE markets, I endorse the decision of the Joint Board to recommend this amendment to the Commission so that public comment on its impact, utility, and administrative feasibility may be solicited. I withhold my judgment on the merits of the amendment until these comments have been analyzed.

[FR Doc. 82-9834 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

¹ See Amendment of § 64.702 of the Commission's Rules and Regulations (The Second Computer Inquiry), 77 FCC 2d 384 (1980), modified on reconsideration, 84 FCC 2d 50 (1980), further reconsideration, 88 FCC 2d 512 (1981), appeal pending sub. nom CCIA v. FCC, Case No. 80-1471 (D.C. Cir. 1980).

² Both Commissioner Gravelle of California and Commissioner Hipp of North Carolina indicated, at our February 24, 1982 meeting, that several carriers in many States are currently anxious to begin terminal equipment sale programs.

³ Chairman Fowler issuing a separate statement.

47 CFR Part 73

[BC Docket No. 82-172; RM-4047]

FM Broadcast Station in Ashdown, Ark.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes a second Class A channel to Ashdown, Arkansas, in response to a petition filed by Floyd W. White.

DATES: Comments must be filed on or before May 20, 1982, and reply comments must be filed on or before June 4, 1982.

ADDRESS: Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 29, 1982.

Released: April 6, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Ashdown, Arkansas).

1. A petition for rule making was filed by Floyd W. White (petitioner), on January 22, 1982, proposing the assignment of FM Channel 221A to Ashdown, Arkansas, as a second allocation to that community. Petitioner expressed a desire to apply for Channel 221A, if assigned.

2. Ashdown (population 4,218),¹ seat of Little River County (population 13,952), is located approximately 200 kilometers (125 miles) southwest of Little Rock Arkansas. It is served by FM Station KMLA (Channel 280A).

3. Petitioner asserts that the economy of Little River is based largely on retail sales. Ashdown is said to have many types of industry, including the world's largest paper mill, and several community services. According to the petitioner, the requested assignment would be responsive to the needs of the community because the proposed facility would provide information regarding city, state, and government procedures, and community programs for its residents.

4. Petitioner did not submit a preclusion study for the proposed second FM assignment at Ashdown (Channel 221A), and is requested to do

so in comments to this proposal, indicating alternate channels available to the communities precluded by the proposed assignment of Channel 221A to Ashdown.

5. In view of the apparent need for a second FM channel at Ashdown, the Commission believes that it would be in the public interest to propose the assignment of channel 221A to that community. Comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the rules as follows:

City	Channel No.	
	Present	Proposed
Ashdown, Ark	280A	221A, 280A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A Showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 20, 1982, and reply comments on or before June 4, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes and *ex parte* presentation and shall not be considered in the proceeding. Any reply comment

which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Lists of Subjects in 47 CFR Part 73

Radio, Television.

(Secs. 4, 303, 48 stat., as amended 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a

¹ Population figures are taken from the 1980 U.S. Census.

different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. Number of Copies. In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-9631 Filed 4-8-82; 6:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-175; RM-4036]

FM Broadcast Station in Copperopolis, Calif.; Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 288A to Copperopolis, California, in response to a petition filed by ZIDO Corporation. The proposed assignment could provide a first FM station at Copperopolis.

DATES: Comments must be filed on or before May 20, 1982, and reply comments on or before June 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 29, 1982.

Released: April 6, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Copperopolis, California).

1. The Commission herein considers a petition filed by ZIDO Corporation (petitioner) proposing the assignment of Channel 288A to Copperopolis, California, as that community's first FM assignment. Petitioner stated its intent to apply for the channel, if assigned.

2. Copperopolis (population not listed), in Calaveras County (population 20,710),¹ is located approximately 100 kilometers (62 miles) southeast of Sacramento. It is without local broadcast service.

3. Petitioner contends that Calaveras County, which is without any radio service, has had a substantial increase in population. In comments to this proposal, the petitioner is requested to furnish economic and demographic information with respect to Copperopolis to demonstrate the need for a first FM assignment. Additionally, it is requested to submit a recent population estimate for Copperopolis.

4. In view of the fact that the proposed assignment could provide a first local service to Copperopolis, we shall issue the Notice to afford the petitioner an opportunity to further justify the need for the proposed assignment. The transmitter site is restricted to 3.3 miles southwest of the city to meet spacing requirements to Station KOZZ, Reno, Nevada.

5. Comments are invited on the proposal to amend the FM Table of Assignments, Section 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Copperopolis, Calif.....		288A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 20, 1982, and reply comments on or before June 4,

¹ Population figures are taken from the 1980 U.S. Census.

1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

List of Subjects in 47 CFR Part 73

Radio, Television.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. **Showing Required.** Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in

initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested

parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-9633 Filed 4-8-82; 8:45 am]
BILLING CODE 6712-10-M

47 CFR Part 73

[BC Docket No. 82-174; RM-4029]

TV Broadcast Station in Scottsbluff, Nebr.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a third television channel to Scottsbluff, Nebraska, in response to a petition filed by Dakota Broadcasting Co., Inc.

DATES: Comments must be filed on or before May 20, 1982, and reply comments on or before June 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 29, 1982.

Released: April 6, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Scottsbluff, Nebraska).

1. The Commission herein considers a petition for rule making filed by Dakota Broadcasting Co., Inc. (petitioner), which seeks the assignment of UHF television Channel 16 to Scottsbluff, Nebraska. Petitioner stated its intent to apply for the channel, if assigned.

2. Scottsbluff (population 14,156),¹ in Scotts Bluff County (population 38,344), is located in western Nebraska, approximately 120 kilometers (77 miles) northeast of Cheyenne, Wyoming. It is presently served by VHF Channel 4 (KDUH-TV) and Channel 10 (KSTF(TV)).

3. Regarding the need for a third television assignment, petitioner asserts that the present facilities at Scottsbluff provides viewers with programming from two networks, noting that Channel 16 could provide a full complement of programming to area residents who are not subscribers of cable television. To further support its proposal, petitioner states that Scottsbluff is one of Nebraska's principal agricultural areas,

¹ Population figures are taken from the 1980 U.S. Census.

ranking high in the production of sugar beets, sheep, cattle, grain and dairy products. It adds that manufacturing related to agriculture and retail sales are also supportive of the economy.

4. We believe that the petitioner's proposal for a third television assignment to Scottsbluff warrants consideration. The channel can be assigned in compliance with the Commission's distance separation requirements and other technical criteria. The proposal could provide Scottsbluff with a third network programming service.

5. In view of the above, comments are invited on the following proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Scottsbluff, Neb.	4+ and 10 —	4+, 10 —, and 16.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 20, 1982, and reply comments on or before June 4, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning

the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

List of Subjects in 47 CFR Part 73

Radio, Television.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 305))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are

filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons action on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-9626 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-173; RM-4020]

FM Broadcast Station in Hughesville, Pa.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 280A to Hughesville, Pennsylvania, in response to a petition filed by Victor August Michael, Jr. The proposal could provide a first FM service to Hughesville.

DATES: Comments must be filed on or before May 20, 1982, and reply comments on or before June 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 29, 1982.

Released: April 6, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hughesville, Pennsylvania).

1. The Commission herein considers a petition for rule making filed by Victor August Michael, Jr. (petitioner), which seeks the assignment of Channel 280A to Hughesville, Pennsylvania, as its first FM assignment. Petitioner stated his intent to apply for the channel, if assigned.

2. Hughesville (population 2,174),¹ in Lycoming County (population 118,416), is located approximately 112 kilometers (70 miles) north of Harrisburg. It is without local broadcast service.

3. In support of his proposal, petitioner states that several communities within a ten mile radius of Hughesville are without local broadcast service. The nearest broadcast facility is said to be 15 miles. Petitioner is requested to submit economic and demographic information demonstrating the need for a first FM assignment to Hughesville in comments to this proposal.

4. Since Hughesville, Pennsylvania, is within 420 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment requires coordination with the Canadian Government.

5. In view of the fact that the proposal could provide a first local service to Hughesville, comments are invited on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the city of Hughesville, Pennsylvania, as follows:

City	Channel No.	
	Present	Proposed
Hughesville, Pa.		280A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

¹ Population figures are taken from the 1980 U.S. Census.

7. Interested parties may file comments on or before May 20, 1982, and reply comments on or before June 4, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

List of Subjects in 47 CFR Part 73

Radio, Television.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast
Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the

proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other document shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-9632 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Services

Certain Stockyards and Livestock Markets; Notice of Approval and Withdrawal of Approval

The regulations in 9 CFR Part 76, as amended, contain restrictions on the interstate movement of swine and swine products to prevent the spread of hog cholera and other swine diseases. This document adds certain livestock markets to the list of livestock markets approved for purposes of the regulations on the basis of a determination of their eligibility for such approval under § 76.18 of the regulations and removes from the list certain other livestock markets which have been found no longer to qualify for such approval.

The following livestock markets preceded by an asterisk are specifically approved to handle any class of swine and those livestock markets *not* preceded by an asterisk are specifically approved to handle slaughter swine only:

Alabama	
Alabama Pork Buyers	Elba.
Agricultural Marketing Association of Alabama, Inc.	Andalusia.
*Agricultural Marketing Association of Alabama, Inc.	Louisville.
*Atmore Truckers Association, Inc.	Atmore.
Beard Livestock Market	Scottsboro.
Don Bradford	Blountsville.
Capital Stockyard	Montgomery.
Casey's Selma Stockyard	Selma.
*Central Alabama Feeder Pig Association.	Clanton.
*Childress Farm Livestock	Albertville.
*Conecuh Stockyard	Evergreen.
*Cullman Feeder Pig Association	Cullman.
*Cullman Stockyard	Cullman.
*Dothan Livestock Auction, Inc.	Dothan.
*Escambia County Co-op	Brewton.
*Farmers Co-op Market	Frisco City.
*Farmers Cooperative Market, Inc.	Opp.
*Farmers Livestock Auction	Russellville.
*Farmers Livestock Co-op	Elba.
Fayette Stockyards, Inc.	Fayette.
Florence Trading Post	Florence.
H. E. Fulford Stockyard	Hartford.
*Geneva Stock Yards, Inc.	Geneva.
*Hamilton Stockyard, Inc.	Hamilton.

*Henry County Livestock Association, Inc.	Abbeville.
Hodges Stockyard, Inc.	Montgomery.
Kennamer Livestock, Inc.	Guntersville.
*Limestone County Feeder Pig Association, Inc.	Athens.
*Louisville Livestock Company	Louisville.
*Marion Stockyard	Marion.
Moulton Stockyard	Moulton.
*Northwest Alabama Livestock Association	Russellville.
*Northwest Alabama Feeder Pig Association, Inc.	Russellville.
*Northeast Alabama Feeder Pig Association	Section.
*Perry-Dallas Feeder Pig Sale	Suttle.
*Pickens County Livestock Commission Company	Aliceville.
Carl Register Stockyards	Siocomb.
*Riverview Farms	Andalusia.
*Robertsdale Livestock Auction, Inc.	Robertsdale.
*Sand Mountain Feeder Pig Association	Guntersville.
*South Alabama Feeder Pig Producers Association	Greenville.
*Southeast Alabama Feeder Pig Association, Inc.	Dothan.
Stokes & Brogden Stock Yard	Andalusia.
*Tennessee Valley Feeder Pig Association	Huntsville.
*Upper Coastal Feeder Pig Association, Inc.	Fayette.
David West Livestock Company	Cottonwood.
*Wiregrass Feeder Pig Association	Hartford.
*Winfield Livestock Commission Company	Winfield.

Arkansas	
*Arkansas National Stockyards	Little Rock.
*Ash Flat Livestock Auction	Ash Flat.
Atkins Livestock Auction	Atkins.
*Batesville Livestock Auction, Inc.	Batesville.
*Beebe Auction, Inc.	Beebe.
*Bentonville Livestock Auction	Bentonville.
*Carroll County Livestock Auction	Berryville.
Central Livestock Auction, Inc.	Morrilton.
*Clark County Livestock Auction	Arkadelphia.
Cleburne County Livestock Auction	Herber Springs.
Decatur Livestock Auction	Decatur.
Drew County Auction	Monticello.
Eudora Livestock Auction	Eudora.
*Farmers and Ranchers Livestock Auction, Inc.	Batesville.
*Farmers and Ranchers Livestock Auction	Mt. View.
Glover Livestock Commission Company	Pine Bluff.
*Bob Gordon Livestock Auction	Mena.
*Harrison Stockyards Auction, Inc.	Harrison.
*Hill & Nuss Livestock Auction	Batesville.
Hope Livestock Auction	Hope.
*Jonesboro Stockyards	Jonesboro.
*Lafayette County Livestock Company	Lewisville.
*Lewis Livestock Co., Inc.	Conway.
*Loflin Pig Farm	Fayetteville.
*Magnolia Livestock Auction	Magnolia.
*Meridith Livestock Auction, Inc.	Pocahontas.
*MFA Livestock Association	Imboden.
*Mountain Home Livestock Auction	Mountain Home.
*North Arkansas Livestock Auction	Green Forest.
*Oak Lawn Farms	Pine Bluff.
Ola Livestock Market	Ola.
*Paragould Livestock Auction	Paragould.
*Rector Auction Sale Barn	Rector.
*Richardson Livestock Commission Company	North Little Rock.
Salem Livestock Auction	Salem.
*Saline-Quachita Valley Livestock Commission Company	Warren.
*Scott County Livestock Auction	Waldron.
*Searcy County Livestock Auction	Marshall.
Siloam Springs Sale Barn	Siloam Springs.
Van Buren County Auction	Clinton.
*Washington County Sales	Fayetteville.
White Livestock Auction	Russellville.
*White County Livestock Auction	Searcy.

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California	
*Dixon Livestock Auction Company	Dixon.
Colorado	
*Alamosa Auction	Alamosa.
*Basin Livestock Commission Company, Inc.	Durango.
*Brush Livestock of Colorado, Inc.	Brush.
*Calhan Cash Auction Market	Calhan.
*Centennial Livestock Auction Co.	Fort Collins.
Clougherty Packing Company	Greeley.
*Cortez Livestock Auction, Inc.	Cortez.
*Delta Sales Yard	Delta.
*Denver Livestock Market	Denver.
*Fowler Auction Company	Fowler.
Fowler Auction Company	Fowler.
Greeley Producers Livestock Marketing Assn.	Greeley.
*High Plains Marketing Assn., Inc.	Burlington.
*Monte Vista Livestock Commission Company, Inc.	Monte Vista.
*National Western Livestock Center	Denver.
*Ranchers and Farmers Livestock Auction	Burlington.
*Ranchland Livestock Commission Company	Wray.
*Sterling Livestock Commission Co., Inc.	Sterling.
*Stratton Livestock Marketing Center	Stratton.
*Union Stockyards	Denver.
*Valley Livestock Auction Company	Fruita.
*Winter Livestock Commission Company	La Junta.
Delaware	
*Carroll's Sales Co.	Felton.
Goldinger Brothers, Inc.	Smyrna.
Charles F. Poore Livestock Market	Smyrna.
Floyd E. West Livestock	Frankford.
Florida	
*Chipley Livestock Market	Chipley.
*Columbia Livestock Market	Lake City.
*Gadsden County Livestock Auction Market	Quincy.
*Gainesville Livestock Market, Inc.	Gainesville.
Jacksonville Livestock Auction Company	Whitehouse.
*Jay Livestock Auction Market	Jay.
*Madison Stockyards	Madison.
*Mills Auction Market	Ocala.
Monticello Livestock Market, Inc.	Monticello.
*North Florida Farmers Co-op, Inc.	Ellisville.
*Suwannee Valley Livestock Market	Live Oak.
*Tindel Livestock Market	Graceville.
West Florida Livestock Auction Market	Marianna.
Georgia	
Bartow Livestock Commission Company	Cartersville.
*Appling Stockmen's Association	Baxley.
B & M Livestock Company, Inc.	Kite.
Bainbridge Auction Market	Bainbridge.
*Barrett Feeder Pigs	Dublin.
Charles R. Barrineau (Stockyard)	Douglas.
*Blackshear Pig Sales, Inc.	Blackshear.
*Blackley County Feeder Pig Sale	Cochran.
Dwight Braswell	Buford.
David Burton Livestock Market (Assembly Point)	Carrollton.
*Bulloch Stockyards	Statesboro.
Carroll County Livestock Sale Barn	Carrollton.
Canoochee Hog Market	Hagan.
Chatham Livestock Company	Savannah.
Citizens Stockyard	Arlington.
Columbus-Muscogee Livestock	Columbus.
Coosa Valley Livestock Company	Rome.
Cordale Livestock Commission Co.	Cordale.
*County Stock Barn	Sandersville.
CSRA Feeder Pig Association	Warrenton.
Cuts Livestock Company	Pelham.
Dawson Livestock Company	Dawson.
*Dodge County Stock Barn	Eastman.
*Dublin Livestock & Commission Co.	Dublin.
Eddinger Livestock	Lyons.
Farmers Livestock Market	Douglas.

Farmers Stockyard.....	Sylvania.
Farmers Stockyard of McRae, Inc.....	McRae.
Fitzgerald Farmers Auction.....	Fitzgerald.
Flint River Livestock Market.....	Bainbridge.
*Four County Farm Bureau Market Association, Inc.....	Twin City.
Franklin County Livestock Market, Inc.....	Carnesville.
Franklin County Livestock Swine Buying Station.....	Carnesville.
Georgia Farm Products Sales Corp.....	Thomaston.
Georgia Farmers Livestock, Inc.....	Cumming.
Glennville Hog Market.....	Glennville.
*Grady County Swine Producers Association.....	Cairo.
O. M. Greene Livestock Company, Inc.....	Bainbridge.
Hagan Livestock Market, Inc.....	Hagan.
H. J. Hall and Company Hog Buying Station.....	Sparks.
B. H. Harrison Livestock Company.....	Bainbridge.
Heinold Hog Markets, Inc.....	Cairo.
Inwin County Livestock Company.....	Ocala.
Jepeway-Craig Commission Company.....	Dublin.
Livestock Marketers, Inc.....	Douglas.
*Lofli Sales Pavilion.....	Macon.
Metter Livestock Market.....	Metter.
Miles Stockyard.....	Bailey.
Miller Livestock Company.....	Colquitt.
Mitchell County Livestock Market.....	Camilla.
John Mosely Livestock and Holman Auction Company.....	Blakely.
*Moultrie Livestock Company.....	Moultrie.
Mt. Vernon Hog Market.....	Mt. Vernon.
*Northeast Georgia Livestock Barn.....	Gainesville.
North Georgia Livestock Auction, Inc.....	Athens.
Peoples Livestock Market, Inc.....	Cartersville.
Peoples Stockyard.....	Cuthbert.
Pierce County Stockyard.....	Blackshear.
Pulaski Stockyard.....	Hawkinsville.
Radford Collection Point.....	Sylvester.
Seminole Livestock, Inc.....	Donalsonville.
Sam Simmons Gordon County Livestock Commission Co.....	Calhoun.
Seaboard Stockyard.....	Colquitt.
Smith Brothers Stockyard.....	Bartow.
Soperton Stockyard.....	Soperton.
*Southeast Georgia Stockyard, Inc.....	Statesboro.
*Sumter Livestock Association.....	Americus.
*Sutton Livestock Company.....	Sylvester.
Swainsboro Stockyards.....	Swainsboro.
Sylvania Stockyard.....	Sylvania.
*Tattal County Feeder Pig Market.....	Glennville.
*Telfair-Wheeler Livestock Market.....	McRae.
Thomas County Stockyard.....	Thomasville.
Tift County N.F.O., Inc.....	Tifton.
Tifton Stockyards.....	Tifton.
Toombs County Stockyard.....	Lyons.
*Tri-County Feeder Pig Sale.....	Broxton.
Tri-County Livestock Company.....	Social Circle.
Tri-County N.F.O. Collection Point, Inc.....	Blackshear.
*Turner County Stockyard.....	Ashburn.
Union Stockyards.....	Albany.
Valdosta Livestock Co., Inc.....	Valdosta.
Vidalia Livestock Auction, Inc.....	Vidalia.
Wayne County Stockyard.....	Jesup.
Wheeler Brothers Livestock Market, Inc.....	Eastonville.
White Livestock Company.....	Quitman.
Bob White's Hog Market.....	Broxton.
Bob White's Hog Market.....	Glennville.
Bob White's Hog Market.....	Rentz.
Wilkes County Stockyard.....	Washington.

Idaho

*Blackfoot Livestock Commission Co.....	Blackfoot.
*Bonners Ferry Livestock, Inc.....	Bonners Ferry.
Burley Livestock Commission Company.....	Burley.
*Cache Valley Livestock Auction.....	Preston.
*Coeur d'Alene Livestock, Inc.....	Coeur d'Alene.
Cottonwood Sales Yard.....	Cottonwood.
Gooding Livestock Commission Co.....	Gooding.
*Idaho Livestock Auction, Inc.....	Idaho Falls.
*Nampa Livestock Markets, Inc.....	Nampa.
Producers Jerome Livestock Marketing Assn.....	Jerome.
*Rexburg Livestock Auction, Inc.....	Rexburg.
Salmon River Livestock Market.....	Salmon.
Shoshone Sale Yard.....	Shoshone.
*Spencer Livestock Commission Co.....	Lewiston.
Stockgrowers Commission Co., Inc.....	Twin Falls.
*Treasure Valley Livestock Auction, Inc.....	Caldwell.
*Twin City Salesyard.....	Lewiston.
*Twin Falls Livestock Commission Co.....	Twin Falls.
*Valley Livestock Commission Co.....	Rupert.
*Weiser Livestock Commission Co.....	Weiser.

Illinois

Albion Livestock.....	Albion.
*Barnard Livestock Auction.....	Wayne City.
*Bloomington Livestock Commission Co.....	Bloomington.
*Breed's Livestock Sales.....	Elizabeth.
Brutlag Livestock Company.....	Potomac.
*Carthage Livestock Auction.....	Carthage.
*Cherry, Nellis (Bros.).....	Shannon.
Chicago Stockyards—Atkinson Market, Inc.....	Atkinson.
Cudahy, Patrick.....	Orangeville.
*Dameron Livestock Auction.....	Vienna.
*Danville Livestock Commission Co.....	Danville.
*Decker's Livestock, Inc.....	Milford.
*DeWane's Livestock Exchange.....	Belvidere.
Edgar County Marketing Association.....	Paris.
Emge Stock Yards.....	Palestine.
*Farmers Choice Marketing Center.....	Winslow.
Farmers Hog Market of Ursa.....	Ursa.
*Galesburg Livestock Sale.....	Galesburg.
Galesburg Order Buyers.....	Milledgeville.
*Greenville Livestock Auction Company.....	Greenville.
Heinold Hog Market #64.....	Atkinson.
Heinold Hog Market.....	Brookport.
Heinold Hog Market #9.....	Buffalo Prairie.
Heinold Hog Market #53.....	Cambridge.
Heinold Hog Market #105.....	Dixon.
Heinold Hog Market.....	Girard.
Heinold Hog Market.....	Leland.
Heinold Hog Market.....	Marengo.
Hesselbacher Brothers.....	Scales Mound.
*Illinois Auction Commission Co.....	Paris.
*Interstate Producers Livestock Association.....	Shelbyville.
Interstate Producers Livestock Association.....	Apple River.
*Interstate Producers Livestock Association.....	Fieldon.
*Interstate Producers Livestock Association.....	Danville.
*Interstate Producers Livestock Association.....	Dongola.
Interstate Producers Livestock Association.....	Elvaston.
Interstate Producers Livestock Association.....	Erie.
*Interstate Producers Livestock Association.....	Fairfield.
*Interstate Producers Livestock Association.....	Golconda.
*Interstate Producers Livestock Association.....	Harrisburg.
*Interstate Producers Livestock Association.....	Pinkneyville.
*Interstate Producers Livestock Association.....	Quincy.
*Interstate Producers Livestock Association.....	Salem.
*Jennings Sales Company.....	Macomb.
Joliet Livestock Marketing Center.....	Joliet.
*Kewanee Sale Barn.....	Kewanee.
Knowles Stock Yards.....	Marshall.
*Knoxville Sale Company, Inc.....	Knoxville.
*Kuntz, Clyde.....	Gridley.
LeHarpe Order Buyers.....	LeHarpe.
Oscar Mayer & Company #772.....	Cambridge.
Oscar Mayer & Company #662.....	Carthage.
Oscar Mayer & Company.....	Davis.
Oscar Mayer & Company.....	Esmond.
Oscar Mayer & Company.....	German Valley.
Oscar Mayer & Company.....	McConnell.
Oscar Mayer & Company.....	Pittsfield.
Oscar Mayer & Company.....	Shannon.
Oscar Mayer & Company.....	Warren.
Mendon Order Buyers.....	Mendon.
*Mercer County Livestock Company.....	Viola.
*Monmouth Livestock Sales Company.....	Monmouth.
*Olney Livestock Commission Co.....	Ciney.
Peoria Union Stockyards Company.....	Peoria.
*Rock Island Auction Sales, Inc.....	Rock Island.
St. Louis National Stockyards.....	National Stockyards.
*Savanna Livestock Sales.....	Savanna.
*Schrader, Harry, Consignment.....	Dakota.
*Southeastern Livestock Association, Inc.....	Albion.
Stanton Stock Yard.....	Lena.
State Line Reload—NFO.....	Roscoe.
George Thompson & Son.....	Morrison.
*Walnut Auction Company.....	Walnut.
*Warren County Livestock Auction.....	Monmouth.
Wilson Feeds Corporation.....	Albany.
Winslow Stockyards.....	Winslow.
Marvin T. Wood.....	Morrison.

Indiana

Attica Stockyards.....	Attica.
*Boone County Sale Barn.....	Lebanon.
*Boswell Livestock Commission.....	Boswell.
*Raymond Boyce Livestock Company.....	Monon.
Mike Brady Stockyards.....	Lagrange.
Mike Brady Stockyards.....	Waterloo.
Camden Hog Market.....	Camden.
*Don Clark Feeder Pig.....	Brook.
*Claypool Sale, Inc.....	Silver Lake.
*Robert Elliott.....	Westport.
Emge Packing Company.....	Fairmount.
Emge Packing Company, Inc.....	Anderson.
Emge Packing Company, Inc.....	Fort Branch.
Emge Packing Company.....	Montpelier.
*Evansville Union Stockyards Company, Inc.....	Evansville.
*Fountain County Livestock Commission Company.....	Veedsburg.
*Geneva Berne Livestock Sale.....	Berne.
*Goshen Commission Sale.....	Goshen.
Greencastle Livestock Center.....	Greencastle.
Heinold Hog Market.....	Bluffton.
Heinold Hog Market.....	Burlington.
Heinold Hog Market.....	Cambridge City.
Heinold Hog Market.....	Goodland.
Heinold Hog Market Inc.....	Jasper.
Heinold Hog Market.....	Conuna.
Heinold Hog Market, Inc.....	Kouts.
Heinold Hog Market.....	Liberty.
Heinold Market.....	North Manchester.
Heinold Hog Market.....	Portland.
Heinold Hog Market.....	Rensselaer.
Heinold Hog Market.....	Rushville.
Heinold Hog Market.....	Tipton.
Heinold Hog Market.....	Wheatland.
*Henry County Livestock Auction.....	New Castle.
*Hilltop Auction Sale.....	Hanover.
Hoosier Stockyards, Inc.....	Frankfort.
Hoosier Stockyards, Inc.....	Knightstown.
Hoosier Stockyards, Inc.....	Lebanon.
Hoosier Stockyards, Inc.....	Roann.
Indianapolis Stockyards Corp.....	Indianapolis.
*Johnson County Sale Pavilion.....	Franklin.
*Knightstown Sale Barn.....	Knightstown.
*Gordon Jones.....	Ridgeville.
*La Fountain Livestock Sale.....	La Fountain.
Logansport Livestock Yards, Inc.....	Logansport.
*Lowell Livestock Auction.....	Lowell.
*Loy's Sale Barn.....	Portland.
M & R Livestock Company.....	Logansport.
Bill Manns.....	Rensselaer.
Mentone Stockyards.....	Mentone.
*Mid-State Feeder Pig Company, Inc.....	Flora.
*Jack Milhollin.....	Parker.
*Montgomery County Sale Pavilion.....	Crawfordsville.
Morrison Livestock.....	Culver.
*Morton Sale Barn.....	Morton.
Ohio Valley Livestock Corp.....	Williamsburg.
*Parke County Sales Pavilion.....	Rockville.
Pavy Stockyard.....	Greensburg.
Pavy Stockyards.....	Milroy.
*Pinkerton Farm Commodities.....	Warren.
Producers Livestock Association.....	Winchester.
*Producers Livestock Association.....	Vincennes.
Producers Livestock Association.....	Vincennes.
*Producers Livestock Association of Ohio.....	Fort Wayne.
Producers Marketing Association.....	Amboy.
*Producers Marketing Association.....	Boonville.
*Producers Marketing Association, Inc.....	Centerville.
Producers Marketing Association Stockyards.....	Centerville.
*Producers Marketing Association.....	Clayton.
*Producers Marketing Association.....	Columbia City.
Producers Marketing Association.....	Decatur.
Producers Marketing Association.....	Frankfort.
Producers Marketing Association.....	Greensburg.
*Producers Livestock Association.....	Bath.
*Producers Market Association.....	Mentone.
*Producers Marketing Association, Inc.....	Montgomery.
*Producers Marketing Association.....	Montpelier.
*Producers Marketing Association.....	North Vernon.
Producers Marketing Association.....	Rensselaer.
Producers Marketing Association.....	Rockville.
*Producers Marketing Association.....	Salem.
*Producers Marketing Association.....	Seymour.
*Producers Marketing Association, Inc.....	Ten-a-Haute.
Producers Marketing Association.....	Ten-a-Haute.
*Producers Marketing Association.....	West Lafayette.
Producers Marketing Association.....	West Lafayette.
Producers Marketing Association, Inc.....	Worthington.
*Reynolds Sale Barn.....	Reynolds.
*Rochester Sale Barn.....	Rochester.

*Royal Center Sale Barn..... Royal Center.
 Rushville Community Sale..... Rushville.
 *Russellville Feeder Pig Company..... Russellville.
 S & W Daily Hog Market..... Wakarusa.
 *Shipsheana Auction, Inc..... Shipsheana.
 *Southeastern Indiana Feeder Pig Auction Assn..... Versailles.
 *Springville Feeder Auction Association, Inc..... Springville.
 P. B. Stewart Company..... Berne.
 P. B. Stewart Company..... Decatur.
 P. B. Stewart Company..... Fulton.
 P. B. Stewart Company..... Plymouth.
 P. B. Stewart Company..... Shipsheana.
 P. B. Stewart Company..... South Whitley.
 *Stoney Pike Sale Barn..... Logansport.
 Sullivan County Livestock Market..... Sullivan.
 *Topeka Livestock Auction Co..... Topeka.
 *White River Valley Feeder Auction Assn..... Worthington.
 *White's Livestock Auction..... Brookville.
 Wilson Food Company..... Wolcott.
 Winner Order Buyers..... Converse.
 *Ralph Yarling..... Elwood.
 *Yeager and Sullivan, Inc..... Camden.
 Zechel Stockyards..... Knox.

Iowa

*Adel Sales Pavilion..... Adel.
 *Albia Sales Company, Inc..... Albia.
 *Anamosa Livestock Auction..... Anamosa.
 *Aplington Livestock Auction..... Aplington.
 Applegate Hog Yard..... Leon.
 Armour and Company..... Bedford.
 Armour and Company..... Mt. Airy.
 *Audubon County Livestock Exchange..... Audubon.
 Audubon County Livestock Exchange..... Audubon.
 *Bedford Sale Company..... Bedford.
 *B & H Cattle Company..... Ida Grove.
 *Bingley Sales Company, Inc..... Knoxville.
 *Bleil & Chapman Livestock Auction..... Kingsley.
 *Bloomfield Livestock Market, Inc..... Bloomfield.
 *Bowman Order Buyers..... DeWitt.
 Brighton Stockyards, Inc..... Brighton.
 *Centerville Hog Market..... Centerville.
 *Central Iowa Stockyards..... Webster City.
 *Clarinda Auction Company..... Clarinda.
 Colfax Livestock Sales Company..... Colfax.
 *Colfax Livestock Sales Company..... Colfax.
 County Line Hog Market..... Linville.
 County Line Hog Market..... Seymour.
 *Cresco Livestock Auction..... Cresco.
 Davis City Stockyards..... Davis City.
 *Decorah Sales Commission..... Decorah.
 *DeVries Auction..... Buffalo Center.
 *Dunlap Livestock Auction..... Dunlap.
 *Eastern Iowa Livestock Commission..... Mechanicsville.
 *Edgewood Livestock Auction, Inc..... Edgewood.
 *Elkader Sale Barn..... Elkader.
 Farmington Order Buyers..... Farmington.
 Farmland Foods, Inc..... Clarinda.
 J. G. Foecke & Company..... West Point.
 *Forest City Cow Palace/Jennings Brothers, Inc..... Forest City.
 *Gaffney Storm Lake Auction..... Storm Lake.
 *Galva Pig Market..... Galva.
 *Grassland Company..... Odebolt.
 *Harian G. Habben Feeder Pig Sales..... Pocahontas.
 *Heinold Hog Market..... Birmingham.
 *Heinold Hog Markets..... Bloomfield.
 *Heinold Hog Market..... Donnellson.
 *Heinold Hog Market, Inc..... Mt. Airy.
 *Heinold Hog Market..... Seymour.
 *Hilltop Feeder Pig Company..... Aplington.
 *Hornell Hog Market..... Centerville.
 *Humeston Livestock Auction..... Humeston.
 *Interstate Producers..... Waukon.
 Interstate Producers..... Waukon.
 *Iowa County Livestock Auction Company, Inc..... Marengo.
 *Iowa Falls Livestock Sales..... Iowa Falls.
 *Kalona Sale Barn, Inc..... Kalona.
 *Keoco Auction Company..... Sigourney.
 *Keosauqua Sale Company, Inc..... Keosauqua.
 *Kimballton Auction Company..... Kimballton.
 *Lamoni Livestock Sales Company, Inc..... Lamoni.
 *Lenox Livestock Auction, Inc..... Lenox.
 *Leon Sale..... Leon.
 Lynch Livestock, Inc..... Waucoma.
 Mahaska Sale Company..... Oakalosa.
 *Manning Livestock Sales, Inc..... Manning.
 *Mapleton Livestock Sales Company..... Mapleton.
 *Maquoketa Livestock Corp..... Maquoketa.
 *Marengo Livestock Auction..... Marengo.
 *Montezuma Sales Company, Inc..... Montezuma.

*Monticello Sale Barn..... Monticello.
 *Moorhead Livestock Auction..... Moorhead.
 *Mt. Airy Livestock Market..... Mt. Airy.
 Ralph Mullenback..... Stacyville.
 *Keith Myers..... Grundy Center.
 National Farmers Organization Collection Point..... Clarinda.
 New Albin Stockyard..... New Albin.
 *New Liberty Livestock Auction..... New Liberty.
 Noe Livestock..... Lime Springs.
 *Northeast Iowa Sales Commission..... Waukon.
 *North Iowa Livestock Exchange..... Garner.
 *Northside Sales Company..... Sibley.
 Osage N.F.O. Collection Point..... Osage.
 *Perry Sales Pavilion..... Perry.
 *Petefish Scale Yard..... Bloomfield.
 *Porth & Baxter..... DeWitt.
 *Producers Livestock Marketing Agency, Feeder Pig Division..... Creston.
 Quale Livestock..... Chester.
 Rath Hog Buying Station..... Weaver.
 *Riceville Sales Pavilion..... Riceville.
 *Norb Roocker Feeder Pigs..... Denison.
 *Sales Company of Hawarden..... Hawarden.
 Schmidt Livestock, Inc..... Garner.
 *Shenandoah Livestock Auction, Inc..... Shenandoah.
 *Sioux City Stockyards..... Sioux City.
 *Sioux City Stockyards Feeder Pig Auction..... Sioux City.
 *Spirit Lake State-Federal Approved Feeder Pig Market..... Spirit Lake.
 Steeples Hog Market..... Bonaparte.
 *Story City Auction Sales, Inc..... Story City.
 *Tama Livestock Auction Company..... Tama.
 Thompson Livestock Commission Company, Inc..... Davis City.
 Carl S. Thurn Stockyard..... Edgewood.
 *Traer Livestock Market..... Traer.
 *Tri-State Livestock Auction Co., Inc..... Sioux Center.
 Walker Brothers (Livestock Market)..... Washington.
 *Walker Sales Company..... Walker.
 *Wapello Livestock Sales, Inc..... Wapello.
 *Waverly Sales Company..... Waverly.
 *Wayland Livestock Auction Market..... Wayland.
 Weerheim Livestock..... Rock Rapids.
 Weichman Pig Company, Inc..... Des Moines.
 Wilson & Company, Inc..... Shenandoah.

Kansas

*Atchison County Auction Company..... Atchison.
 *Atwood Sales Barn, Inc..... Atwood.
 *Caldwell Community Sale..... Caldwell.
 *Circle "L" Livestock Sale..... Liberal.
 *Clay Center Livestock Co., Inc..... Clay Center.
 Clearwater Livestock..... Viola.
 Clougherty Packing Company..... Marysville.
 *Coffeyville Livestock Sales Co., Inc..... Coffeyville.
 *Coffeyville Stockyards, Inc..... Coffeyville.
 *Colby Livestock Auction..... Colby.
 *Coldwater Livestock Sale Co., Inc..... Coldwater.
 *El Dorado Livestock Auction, Inc..... El Dorado.
 Farmland Foods..... Seneca.
 G & S Livestock..... Kingman.
 *Hansen Livestock Auction..... Concordia.
 *Hays Livestock Market Center, Inc..... Hays.
 *Hiawatha Auction Company..... Hiawatha.
 Hornell Hog Buying Station..... Washington.
 *Hoxie Livestock Sale..... Hoxie.
 Hutchinson Livestock Commission Co., Inc..... Hutchinson.
 *J. J. Livestock Commission Company..... Effingham.
 *Junction City Sales Company, Inc..... Junction City.
 Kansas Hog Company..... Morland.
 Kuhlman Hog Yards..... Smith Center.
 Luckeroth Hog Market..... Seneca.
 *Mankato Livestock Commission Company..... Mankato.
 *Marysville Livestock Commission Co..... Marysville.
 Maurer-Neuer Packing Company..... Independence.
 *Medicine Lodge Sale Company..... Medicine Lodge.
 *Miami County Livestock Co., Inc..... Paola.
 *Mid-Kansas Swine Association..... Hutchinson.
 *Moline Auction Company, Inc..... Moline.
 N.F.O. Buying Station..... Marysville.
 *Oberlin Livestock Commission Company..... Oberlin.
 Ogle Hog Company..... Emmett.
 *Parsons Livestock Auction, Inc..... Parsons.
 *Phillipsburg Sales Company..... Phillipsburg.
 *Rezac Livestock Commission Co..... St. Marys.
 *Sabetha Livestock Auction..... Sabetha.
 *St. Francis Livestock Sales..... St. Francis.
 Smith Center Hog Company..... Smith Center.
 *South East Kansas Feeder Pig Association..... Fredonia.

*Southwestern Livestock, Inc..... Dodge City.
 Stafford Brothers Hog Market..... Fort Scott.
 *The Stockmans Livestock Exchange..... Belleville.
 *Syracuse Sale Company, Inc..... Syracuse.
 *Washington Livestock Sales..... Washington.
 Wilson Certified Foods..... Independence.
 *Wichita Union Stockyards..... Wichita.
 *Winfield Livestock Auction, Inc..... Winfield.

Kentucky

*Albany Stockyard, Inc..... Albany.
 R. B. Berry & Son..... Clinton.
 *Blue Grass Stockyard..... Lexington.
 *Bourbon Stockyard Company..... Louisville.
 *Bowling Green Stockyard..... Bowling Green.
 *Boyle County Stockyard..... Danville.
 Breckinridge Livestock Center..... Irvington.
 Brown Livestock Company..... Clinton.
 *Bullitt County Stockyards..... Shepherdsville.
 Carnes Livestock Market..... Leitchfield.
 *Cattletown Livestock Market..... Catlettsburg.
 *Central Kentucky Livestock Market, Inc..... Stanford.
 Christian County Livestock Market, Inc..... Hopkinsville.
 *Clark County Livestock Market..... Winchester.
 *Clay-Wachs Stockyard..... Lexington.
 *Cross-Walton Livestock Market Center..... Walton.
 *Dinwiddie Feeder Pig..... Leitchfield.
 *Edmonton Livestock Market, Inc..... Edmonton.
 Elizabethtown NFO Reload..... Elizabethtown.
 Faure Stockyards..... Bardwell.
 *Farmers Commission Co., Inc..... Tompkinsville.
 *Farmers Livestock Feeder Pig Sale..... Mayfield.
 *Farmers Livestock Market..... London.
 *Farmers Livestock Marketing Co-op..... Russellville.
 *Farmers Livestock Market of Glasgow, Inc..... Glasgow.
 *Farmers Stockyards..... Flemingsburg.
 Field Packing Company Stockyard..... Owensboro.
 *Florence, Peak and Fryman..... Cynthia.
 Franklin-Simpson Livestock Company, Inc..... Franklin.
 *Garfield Auction Market..... Harned.
 *Garrard County Stockyard..... Lancaster.
 *Glasgow Livestock Market..... Glasgow.
 *Good Day Stockyards..... Princeton.
 Graves County Livestock Company, Inc..... Mayfield.
 *Brayson County Stockyards Market, Inc..... Leitchfield.
 *Green County Stockyards..... Greensburg.
 Green River Livestock Market, Inc..... Munfordville.
 Hart County Livestock Market..... Munfordville.
 *Heinold Hog Markets, Inc..... Fancy Farm.
 *Heinold Hog Markets..... Marion.
 *Heinold Hog Markets, Inc..... Morganfield.
 *Henry County Stockyard..... Sulphur.
 Holmes Livestock Company, Inc..... Scottsville.
 Hopkinsville NFO Collection Point..... Hopkinsville.
 Horse Cave Stockyards..... Horse Cave.
 *Interstate Producers Livestock Association..... Fancy Farm.
 *Interstate Producers Livestock Association..... Morganfield.
 *Joltys Feeder Pigs..... Albany.
 *Kentuckiana Livestock Market..... Owensboro.
 *Kentucky Livestock Market, Inc..... Bowling Green.
 *Kentucky-Tennessee Livestock Market, Inc..... Guthrie.
 *King Livestock Company, Inc..... Hopkinsville.
 *Laural Sales Company..... London.
 *Madison Sales Company..... Richmond.
 *Mammoth Cave Marketing Corporation..... Smiths Grove.
 Mantle Stockyards..... Bardwell.
 *Maysville Stockyard..... Maysville.
 Morganfield NFO Collection Point..... Morganfield.
 Morganfield Stockyards..... Morganfield.
 *New Farmers Stockyard..... Mount Sterling.
 *N.F.O. Stockyards..... Cynthia.
 Ohio Valley Producers..... Corydon.
 *Owen County Stockyard..... Owenton.
 *Owsley County Stockyard..... Bonnellville.
 Paducah Livestock Company..... Paducah.
 *Paintsville Livestock Market..... Paintsville.
 *Paris Stockyard..... Paris.
 *Ratcliff Stockyards..... Mt. Sterling.
 John M. Riley Livestock Market..... Mayfield.
 *Russell County Stockyard..... Russell Springs.
 *Lee Schneider Sales Barn..... Walton.
 *Somerset & Pulaski Livestock Market, Inc..... Somerset.
 Bill Stark Hog Center..... Bowling Green.
 *Taylor County Stockyards..... Campbellsville.
 *Tri-County Stockyard..... Smithfield.
 *W K 259 Livestock Market..... Leitchfield.
 *Walton NFO Sales, c/o George Boh..... Walton.
 *Washington County Livestock Center, Inc..... Springfield.

*Wayne County Feeder Pig Auction..... Monticello.
Wayne County Livestock Market, Inc..... Monticello.
*West Kentucky Land & Cattle Company, Inc..... Marion.
*Wigwam Hog and Feeder Pig Market..... Horse Cave.
*Williamstown Stockyard..... Williamstown.

Louisiana

Ark-La Tex Pork Marketing Association..... Minden.
*Avoyelles Swine Association..... Marksville.
*Bastrop Livestock Auction..... Bastrop.
*Central Louisiana Swine Products Association..... Jena.
*Delhi Livestock Auction..... Delhi.
*DeQuincy Livestock Commission Co..... DeQuincy.
*DeRidder Livestock Commission Co..... DeRidder.
*Florida Parishes Feeder Pig Association..... Amite.
*Franklinton Stockyards, Inc..... Franklinton.
*Guiteau-Kennedy, Inc..... Baton Rouge.
Homer Livestock Commission Co..... Homer.
Lum Brothers Stockyards, Inc..... Vidalia.
Bill Lyles Livestock Auction..... Grand Cane.
*Macon Ridge Swine Producers Association..... Winnsboro.
*Micoile's Commission Yard, Inc..... Lake Charles.
*Northwest Louisiana Swine Growers Association..... Minden.
*Southwest Louisiana Swine Producers Assn..... Basile.
*West Monroe Livestock Auction..... West Monroe.

Maine

*Massow's Livestock Sales..... Corinna.
*Ben Tilton & Sons..... Corinith.

Maryland

*Aberdeen Sales Company..... Aberdeen.
Adkin Livestock, Inc..... Parsonburg.
Baltimore Livestock Market, Inc..... West Friendship.
*Caroline Sales Company..... Denton.
*Cumberland Stockyards, Inc..... Cumberland.
*Dukes Brothers Stockyards, Inc..... Edon.
Esskay Buying Station..... Baltimore.
Esskay Buying Station..... Wye Mills.
*Farmers Market and Auction..... Mechanicsville.
*Four States Livestock Sales, Inc..... Hagerstown.
*Frederick Livestock Auction, Inc..... Frederick.
*Friend's Stock Yard, Inc..... Friend.
Grantsville Livestock Auction, Inc..... Grantsville.
*Grantsville Community Sales, Inc..... Grantsville.
Hatfield Packing Company Buying Station..... Eden.
*Hunter's Sale Barn, Inc..... Rising Sun.
Penn Packing..... Snow Hill.
*Harry Rudnick & Sons, Inc..... Galena.
*S & J Villari Livestock..... Snow Hill.
*Western Maryland Stock Yards, Inc..... Westminster.
*Woodsboro Livestock Sales, Inc..... Walkersville.

Massachusetts

*Stanley Beckwith and Son..... Granville.
*Farmers Live Animal Market Exchange, Inc..... Littleton.
J. P. Haas and Sons..... Rehoboth.
*Northampton Cooperative Auction Assn., Inc..... Whately.
*Soares Livestock and Equipment..... West Bridgewater.

Michigan

Andy Adams Sale Barn..... Hillsdale.
Coldwater Livestock Auction..... Coldwater.
Croswell Stockyards..... Croswell.
Heinold Hog Markets, Inc..... Burlington.
Heinold Hog Markets, Inc..... Jones.
Lugbill Brothers, Inc..... Morenci.
Michigan Live Stock Exchange..... Battle Creek.
Michigan Live Stock Exchange..... Cassopolis.
Michigan Livestock Exchange..... Manchester.
Napoleon Livestock Commission Company..... Napoleon.
Tecumseh NFO Collection Point..... Britton.
Westfall Stockyards..... Hillsdale.

Minnesota

*American Feeder Pig Co-op..... Perham.
*American Feeder Pig Co-op..... Sauk Centre.
*Anderson Feeder Pig Company..... Willmar.
*Arends Sale Yard, Inc..... Blue Earth.

Armour and Company..... Browns Valley.
Armour and Company..... Dawson.
Armour Hog Buying Station..... Ortonville.
B L D Livestock, Inc..... Ivanhoe.
*Bauman's Livestock..... Ellsworth.
*Benson Livestock Exchange, Inc..... Benson.
*Canby Livestock Sales Company..... Canby.
*Cottonwood Veterinary Clinic..... Windom.
*Farmers Livestock Auction Market..... Caledonia.
Farmers Livestock Company..... Elmore.
Gries Livestock Market..... Kiester.
*Harmony Livestock Sales..... Harmony.
*Hebrink Feeder Pig Market..... Renville.
George A. Hornell Livestock Buying Station..... Canby.

Hornell Livestock Buying Station..... Blue Earth.
Janessville Stockyard..... Janessville.
*Kasson Livestock Exchange..... Kasson.
Lakerfield N.F.O. Collection Point..... Lakerfield.
*Lamberton Stockyards, Inc..... Lamberton.
Lee and John's Livestock..... Harmony.
*Lewiston Livestock Market..... Lewiston.
*Long Prairie Livestock Auction Market..... Long Prairie.
*Luverne Livestock Auction..... Luverne.
*Minnesota Feeder Pig Market (Elysian Divn.)..... Elysian.
*Minnesota Feeder Pig Markets, Inc..... Glibson.
*Minnesota Feeder Pig Markets, Inc. (Willmar Divn.)..... Willmar.

*Minnesota Feeder Pig Market..... Windom.
John Morrell and Company..... Kiester.
Morrell Hog Buying Station..... Madison.
Morris Hog Buying Station..... Morris.
*Ness Feeder Pig Company..... Hector.
*Northern States Feeder Pig, Inc..... Sauk Centre.
Pierson Livestock..... Ivanhoe.
*Pipestone Livestock Auction Market..... Pipestone.
*Pork Central..... Mabel.
Rath Packing Company..... Prosper.
Rath Packing Company..... Rushford.
*Rice Feeder Pig Center..... Rice.
Rosen Livestock..... Fairmont.
*Rush City Livestock Auction..... Rush City.
*St. Paul Union Stockyards..... South St. Paul.
*Schmidt Livestock Sales, Inc..... Truman.
*Sleepy Eye Auction Market..... Sleepy Eye.
Smith Livestock Market..... Granada.
*Speldrich Feeder Pig Market..... Belgrade.
*Springfield Stockyards..... Springfield.
*Spring Grove Livestock Exchange, Inc..... Spring Grove.
*Spring Valley Sales Company..... Spring Valley.
*Tenney Feeder Pig Company..... St. James.
*Top Livestock Auction..... Edgerton.
Welcome NEO Livestock Collection Point..... Welcome.

Wilson and Company..... Bricelyn.
*Windom Sale Company, Inc. (Swine Market)..... Windom.
Winona NFO Collection Point..... Goodview.
*Worthington Livestock Sales Company..... Worthington.
*Zumbrota Livestock Auction Market, Inc..... Zumbrota.

Mississippi

*Alcorn County Stockyards..... Corinth.
Max Alman's Assembly Point..... Pelahatchie.
*Amory Area Feeder Pig Sale..... Amory.
S. K. Asjewe Assembly Point..... Edwards.
*Booneville Area Feeder Pig Association..... Booneville.
*Booneville Commission Company..... Booneville.
*H.T. Branning Livestock Company..... French Camp.
*Bruce Area Feeder Pig Sale..... Bruce.
Central Livestock Company..... Brandon.
*Central Mississippi Livestock Commission Company..... Carthage.

*Chickasaw Livestock Auction, Inc..... Houston.
*Corinth Stockyard, Inc..... Corinth.
*Delta Stockyard, Inc..... Greenville.
*East Mississippi Farmers Livestock Company..... Philadelphia.
George County Stockyards, Inc..... Lucedale.
*Grenada Livestock Exchange..... Grenada.
W. N. Heidel, Jr., Assembly Point..... Vaughn.
Laurel Stockyards..... Laurel.
*Lucedale Area Feeder Pig Association..... Lucedale.
*Lucedale Auction, Inc..... Lucedale.
*Lum Commission Company..... Vicksburg.
Mattox Livestock Dealer, Inc..... Belden.
Edward McCaughn Assembly Point..... Morton.
*McComb Area Feeder Pig Sale..... McComb.
Meridian Stockyards..... Meridian.
*Natchez Stockyards..... Natchez.
*New Albany Feeder Pig Sale..... New Albany.
*Peelers Livestock Sales..... Kosciusko.
*Port Gibson Area Feeder Pig Assn..... Port Gibson.

Ranchers and Farmers Livestock Commission Company..... Macon.
*Glynn Robinson Stockyard..... West Point.
Smith Brothers Stockyard..... Poplarville.
T. Smith Livestock..... Hattiesburg.
*Southeast Mississippi Feeder Pig Assn..... Laurel.
*Southeast Mississippi Livestock Farmers Assn..... Hattiesburg.
*Southwest Stockyard..... Port Gibson.
Spicer Livestock, Inc..... Tupelo.
Stockyard Beef Sale, Inc..... Tupelo.
Stringer Sale Barn..... Columbia.
Donald & Vines Assembly Point..... Morton.
*Walnut Sales Company..... Walnut.
*Wayne Area Pork Producers Association..... Waynesboro.
*Waynesboro Live Livestock Yards, Inc..... Waynesboro.

Missouri

*Alton Sale Company..... Alton.
Armour & Company Buying Station..... Brainer.
Armour & Company..... Corder.
*Ava Sales Company..... Ava.
Baring Stockyards..... Baring.
*Beck & McCord Auction Company..... Sikeston.
*Benton County Producers Association..... Warsaw.
*Bollinger County Livestock Producers Assn..... Marble Hill.
*Brookfield Livestock Auction, Inc..... Brookfield.
*Bryant and Kirkman..... Summersville.
*Butler Community Sale..... Butler.
*Cabool Livestock Market, Inc..... Cabool.
*Callaway Livestock Auction..... Fulton.
*Callao NFO Collection Point..... Callao.
*Callaway Stock Sales Company..... Fulton.
*W. R. Cantrell & Sons Sale Company..... Archie.
*Carrollton Livestock Auction..... Carrollton.
*Cassville Livestock Market, Inc..... Cassville.
Central Hog Buyers..... Centralia.
*Central Hog Market..... Rich Fountain.
*Central Livestock Market of Poplar Bluff..... Poplar Bluff.

*Central Missouri Livestock Auction, Inc..... Mexico.
*Central Missouri Sales Company, Inc..... Sedalia.
*Central Ozark Auction..... West Plains.
*Charleston Auction Company..... Charleston.
*Chillicothe Livestock Market, Inc..... Chillicothe.
*Circles S Livestock Market..... Stanberry.
*Clark County Sale Company, Inc..... Kahoka.
Clinton Hog Market..... Clinton.
*Columbia Livestock Auction Market, Inc..... Columbia.
*Concordia Livestock Auction..... Concordia.
County Line Hog Market..... Cairnsville.
*Dent County Livestock Improvement Assn..... Salem.
*Diamond Marketing Center, Inc..... Diamond.
*Downing Stockyards..... Downing.
*Edina Auction Market, Inc..... Edina.
Edina NFO Collection Point..... Edina.
*Four Square Livestock Commission Co., Inc..... Marshall.

Eldon Hog Market..... Olean.
El Dorado Sales Company, Inc..... El Dorado.
Esskay Buying Station..... Littletown.
*Farmers & Traders Commission Co., Inc..... Palmyra.
*Farmers Livestock Auction, Inc..... Booneville.
*Farmington Livestock Market, Inc..... Farmington.
Ferguson Hog Market..... Sedalia.
Fortuna NFO Collection Point..... Fortuna.
4 Corners Collection Point (NFO)..... Hunnewell.
*4 County Feeder Pig Auction..... Humansville.
Four Rivers Collection Point..... Labadie.
*Fredericktown Auction Company, Inc..... Fredericktown.
*Fruitland Livestock, Inc..... Jackson.
*Gallatin Livestock Auction, Inc..... Gallatin.
*Donald Ghere Marketing Facility..... Butler.
*Grant City Livestock Market, Inc..... Grant City.
*Green City Livestock Market..... Green City.
Harkins Livestock Market..... Trenton.
Heinold Hog Market, Inc..... Blehlie.
Heinold Hog Market, Inc..... Bloomfield.
Heinold Hog Buyers, Inc..... Bowling Green.
Heinold Hog Market, Inc..... Clarence.
Heinold Hog Market..... Hawk Point.
Heinold Hog Market..... King City.
Heinold Hog Market..... Labele.
Heinold Hog Market..... Maryville.
Heinold Hog Market..... Monroe City.
Heinold Hog Market, #14..... Monticello.
Heinold Hog Markets, Inc..... Paris.
Heinold Hog Market..... Stet.
Heinold Hog Market, Inc..... Tarkio.

Hennold Hog Market.....	Trenton.	*St. Joseph Stockyards-Market Hog Di- vision.....	South St. Joseph.	McKee Livestock.....	Superior.
Hennold Hog Market, Inc.....	Wellsville.	Sie Genevieve Livestock Collection Point.....	Sta. Genevieve	*Midwest Livestock Commission Co., Inc.....	McCook.
George A. Hormel & Company.....	Princeton.	*Salem Auction Company.....	Salem.	National Farmers Organization.....	Guide Rock.
Howard County NFO Collection Point.....	Armstrong.	*Savannah Sales Company.....	Savannah.	National Farmers Organization.....	Pawnee City.
*Interstate Producers Livestock Assn.....	Armstrong.	*Scotland County Livestock Auction, Inc.....	Memphis.	*Nebraska City Sale Barn, Inc.....	Nebraska City.
*Interstate Producers Livestock Assn.....	Brookfield.	*Sedgewickville Auction.....	Sedgewickville.	*Norfolk Livestock Market, Inc.....	Norfolk.
*Interstate Producers Livestock Assn #2.....	Caledonia.	*Shelbina Auction Company.....	Shelbina.	N.F.O. Reload Point.....	Whitney.
*Interstate Producers Livestock Assn #1.....	Cuba.	Shell Feed & Supply.....	Fredericktown.	*Ogallala Livestock Market.....	Ogallala.
*Interstate Producers Livestock Assn.....	Hamilton.	Shell Feed & Supply.....	Perryville.	Omaha Livestock Market, Inc (Slaughter Division).....	Omaha.
Feeder Pig Market.....	Jackson.	Shell Feed & Supply.....	Lutesville.	*Omaha Livestock Market, Inc (Rig Palace).....	Omaha.
*Interstate Producers Livestock Assn.....	Jackson.	*Sho-Me Feeder Pig, Inc.....	Ava.	*Oxford Livestock Market.....	Oxford.
*Interstate Producers Livestock Assn.....	Perryville.	*Sho-Me Feeder Pig, Inc.....	Thayer.	*Pawnee Livestock, Inc.....	Pawnee City.
*Ireland Brothers Livestock Market, Inc.....	Trenton.	6-D Hog Market Center.....	Marshall.	*Pender Livestock, Inc.....	Pender.
*Johnson County Livestock Market.....	Warrensburg.	*South Central Livestock Market, Inc.....	Vienna.	*Platte Valley Livestock Auction, Inc.....	Gering.
*Joplin Stockyards.....	Joplin.	Southeast Missouri Stockyards Company.....	Oran.	Pork Packers International, Inc.....	Superior.
*Kahoka Sale Company, Inc.....	Kahoka.	*Southwest Feeder Pig Market, Inc.....	Nixa.	*Red Cloud Livestock Commission Co., Inc.....	Red Cloud.
*Kansas City Stockyards.....	Kansas City.	*Southwest Missouri Livestock Association, Inc.....	Sarcoxie.	*Sheridan Livestock Commission Co.....	Rushville.
*Kennett Sales Company, Inc.....	Kennett.	Straightway Farm Services, Inc.....	Jackson.	*Southeast Nebraska Livestock Market.....	Palmyra.
*Kingsville Livestock Auction.....	Kingsville.	*Summersville Livestock Market.....	Summersville.	*Superior Livestock Commission Co., Inc.....	Superior.
Kingsville N.F.O. Collection Point.....	Kingsville.	Swift Independent Packing Company.....	Eolia.	*Tecomseh Livestock Market.....	Tecomseh.
Kirksville Community Sale, Inc.....	Kirksville.	Swift Independent Packing, Inc (Hog Buying Station).....	Maryville.	*Tri-State Livestock Commission Co., Inc.....	McCook.
Lean-Lee, Inc.....	Alton.	Thomas Hog Market.....	Syracuse.	Valley Pork.....	McCook.
Harold Kornbrust Hog Buying Station.....	Marceline.	Thomas & Potter Hog Markets.....	Eldon.	*Verdigre Livestock Market.....	Verdigre.
*Laclede County Livestock Producers Association.....	Labanon.	Thompson Hog Market.....	Glasgow.	The Weichman Pig Company, Inc.....	Fremont.
*Lakeland Livestock, Inc.....	Lowry City.	*Tina Livestock Auction.....	Tina.	*Western Livestock Auction Company.....	North Platte.
*The Lamar Cattle Auction.....	Lamar.	Troutman Livestock.....	Memphis.	Whitney Livestock.....	Whitney.
*Lamar Sales.....	Lamar.	Troy Hog Market, Inc.....	Troy.	Wilson and Company.....	Auburn.
LaMonte NFO Collection Point.....	LaMonte.	*Union Stockyards.....	Springfield.	Wilson and Company.....	Pawnee City.
Lebanon Livestock Auction.....	Lebanon.	*Unionville Sale Company.....	Unionville.	Wilson and Company.....	Syracuse.
Lewis & Son Hog Buyers.....	Glasgow.	Van Mete Hog Market.....	Kingsville.	*York Livestock Sales Company.....	York.
*Lexington Livestock Auction.....	Lexington.	Carroll Warnock Stockyards.....	Lineville, Iowa.	York Packing-Buying Station.....	Superior.
*Licking Livestock Sales, Inc.....	Licking.	Warnock Stockyard.....	Trenton.		
Linn County Beef Producers, Inc.....	Brookfield.	*Warsaw Auction Company.....	Warsaw.	New Jersey	
*Lockwood Livestock Auction.....	Lockwood.	West Plains City Scales.....	West Plains.	Wallace H. Coates Livestock Company.....	Monroeville.
*Loli Sales Pavilion.....	Macon.	*West Plains Livestock Auction.....	Pomona.	Jaeger's Livestock Market.....	Sussex.
*Mansfield Livestock Auction, Inc.....	Mansfield.	*West Plains MFA Feeder Pig Yards.....	West Plains.	*Livestock Cooperative Auction Market Association of North Jersey, Inc.....	Hackettstown.
*Marshall Livestock Auction.....	Marshall.	*Wheaton Livestock Auction.....	Wheaton.		
Oscar Mayer & Company, Inc.....	Callao.	Will Lin Hog Buying.....	Browning.	New Mexico	
Oscar Mayer & Company, Inc.....	Shelbina.	Wilson & Company Hog Market.....	Chillicothe.	B & D Hog Company.....	Clovis.
Mayville NFO Collection Point.....	Amity.	Wilson & Company Hog Market.....	Palmyra.	*Clovis Hog Company, Inc.....	Clovis.
*Mayville NFO Collection Point.....	Amity.	Wilson & Company, Inc.....	Marshall.	Clovis Hog Market.....	Clovis.
*Mercer County Sale Company.....	Princeton.	Wilson Foods Hog Market.....	Lexington.	*Five State Livestock Auction Company.....	Clayton.
*Meta Collection Point, Inc.....	Meta.	Wilson Hog Buying Station.....	Greenfield.	Portales Livestock Commission Compa- ny.....	Portales.
*MFA Cattlemen Auction Company.....	Humansville.	Wilson Hog Market.....	Albany.		
MFA Hog Market.....	Burlington.	Wilson Hog Market.....	Noelville.		
	Junction.	Wilson Hog Market.....	Salisbury.		
*MFA Feeder Pig Assembly Point.....	Elington.	*Windsor Auction.....	Windsor.		
*MFA Feeder Pig Market.....	Sedalia.				
*MFA Feeder Pig Tele Auction.....	Daniphan.	Montana			
*MFA Feeder Pig Yards.....	Rolla.	*Baker Livestock Auction, Inc.....	Baker.		
*MFA Feeder Pig Yards.....	Stockton.	*Glasgow Livestock Sales Company.....	Glasgow.		
*MFA Feeder Pig Market.....	Taneyville.	Gendive Livestock Sales Company.....	Glenview.		
*MFA Feeder Pig Yards.....	Westphalia.	*Kalispell Livestock Auction.....	Kalispell.		
*MFA Livestock Association.....	Alton.	*Livestock Auction, Inc.....	Baker.		
*MFA Livestock Association.....	Cabool.	*Miles City Livestock Marketing Center.....	Miles City.		
*MFA Livestock Association.....	Mansfield.	Pierce Buying Station No. 1 (Red Hick- ory Yard).....	Baker.		
*MFA Livestock Association, Inc.....	Wheaton.	Pierce Packing Company, Buying Station #2.....	Billings.		
*Midstates Livestock Market, Inc.....	Maryville.	*Public Auction Yards.....	Billings.		
*Mid-West Livestock Market, Inc.....	Nevada.	*Sidney Livestock Market Center.....	Sidney.		
*Milan Livestock Auction, Inc.....	Milan.				
*Moberly Auction Company, Inc.....	Moberly.				
Mo Cow Company.....	Lancaster.				
*Montgomery County Livestock Auction Company.....	Montgomery City.				
*Mountain Grove Livestock Market.....	Mountain Grove.				
National Hog Buyers, Inc.....	Columbia.				
*Nevada Livestock Auction, Inc.....	Nevada.				
*New Cambria Livestock Auction Market.....	New Cambria.				
NFO Cameron Collection Point.....	Cameron.				
Nichols Stockyards.....	Beithany.				
*Odessa Community Sale.....	Odessa.				
*Ocean Livestock Market, Inc.....	Olean.				
Olschlager Livestock Market.....	St. Elizabeth.				
Osage Hog Buyers, Inc.....	Linn.				
*Osage County Livestock Producers As- sociation.....	Linn.				
*Palmyra Livestock Auction Market.....	Palmyra.				
*Pasley Auction Company.....	Osceola.				
*Patton Junction N.F.O. Collection Point.....	Patton.				
*Bob Pierce Sale Barn.....	Buffalo.				
*Poplar Bluff Sales Company.....	Poplar Bluff.				
*Polosi Livestock Market.....	Potosi.				
*Pudico Stockyards & Auction Company.....	Pudico.				
Rains Livestock, Inc.....	Poplar Bluff.				
Reed Livestock.....	Dexter.				
Reed (Chester) Livestock Market.....	Mountain Grove.				
*Rich Hill Sale Company.....	Rich Hill.				
*Roberts Brothers Livestock Commis- sion Co.....	Bolivar.				
*Rockport Sales Pavilion, Inc.....	Rockport.				
*Rolla Livestock Market.....	Rolla.				
*St. Clair Auction Company.....	St. Clair.				
*St. James Auction Company.....	St. James.				
*St. Joseph Stockyards.....	South St. Joseph.				

Mount Olive Livestock Market (Buying Station)	Mount Olive.
*Mount Olive Livestock Market	Mount Olive.
Mountain Livestock Auction	Murphy.
*Mountain Livestock Auction Feeder Pig Sale	Murphy.
Nichols Livestock Market, Inc.	Dunn.
North Central Livestock, Inc.	Timberlake.
*Norwood Stockyard	Norwood.
*Oxford Livestock Market, Inc.	Oxford.
*Pates Stockyard, Inc.	Pembroke.
Pates of Whiteville	Whiteville.
*Powell Livestock Company of Smithfield	Smithfield.
Reaves Livestock, Inc.	Rowland.
Shelby Livestock, Inc.	Shelby.
Smithfield Packing Company Hog Buying Station	Murfreesboro.
Tommi Turner Livestock Market	Pink Hill.
Turner's Livestock, Inc.	Elizabeth City.
*Union County Livestock Auction, Inc.	Monroe.
*Wells Livestock Market, Inc.	Wallace.
Wells Livestock Daily Buying Station	Wallace.
Western Carolina Hog Buying Station	Murphy.
*Western Carolina Livestock Market & Feeder Pig Sale	Asheville.
Whedbee Livestock Market, Inc.	Hertford.
R. O. Whitely, Inc.	Como.

North Dakota

Armour & Company	Wahpeton.
*Ashley Livestock Sales Company	Ashley.
*Carrington Livestock Sales, Inc.	Carrington.
Central Livestock Association, Inc.	Dickinson.
Cloverdale Foods Company	Minot.
*Edgeley Livestock, Inc.	Edgeley.
*Farmers Livestock Exchange of Bismarck, Inc.	Bismarck.
*Glick Livestock Auction	Minot.
Hamann Livestock Company	Dickinson.
*Harvey Livestock Auction	Harvey.
*Homebase Auction, Inc.	Rowman.
*Jamestown Livestock Sales Company	Jamestown.
*Kist Livestock Auction Company	Mandan.
*Lake Region Auction and Livestock Market, Inc.	Devils Lake.
*Linton Livestock Sales, Inc.	Linton.
*Minot Livestock Auction Sales, Inc.	Minot.
Pierce Packing Company Buying Station	Hettinger.
*Rugby Livestock Auction, Inc.	Rugby.
*Stockmen's Livestock Exchange, Inc.	Dickinson.
*Sitting Bull Auction	Williston.
*Stockmen's Livestock Exchange, Inc.	Boula.
*Tri-State Auction Market, Inc.	Hettinger.
*Turtle Lake Livestock, Inc.	Turtle Lake.
*Union Stockyards Company of Fargo	West Fargo.
*Watford City Livestock Auction	Watford City.
*Western Livestock, Inc.	Dickinson.
*Wikenheiser Livestock	Strasburg.
*Wisconsin Feeder Pig Marketing Co-op	Litchville.

Ohio

Bauman Stockyards, Inc.	Napoleon.
*Bloomfield Livestock Auction	North Bloomfield.
Merle A. Bussert Livestock	Amanda.
*Burkettsville N.F.O. Collection Point	Burkettsville.
Butler County N.F.O. Collection Point	Hamilton.
*Carrollton Livestock Auction	Carrollton.
Chickasaw Stockyard	Chickasaw.
Cisco Stockyard, Inc.	St. Marys.
*Damascus Livestock Auction	Damascus.
*Delta Livestock Auction	Delta.
*Dicke Stockyard	New Bremen.
*William Espel and Sons, Inc.	Cincinnati.
*Findlay Producers Livestock Association	Findlay.
French City Meats, Inc.	Gallipolis.
Gambos Stockyards	Pioneer.
*Gaugha Livestock Commission, Inc.	Middlefield.
Harpster Stockyards	Ashland.
Harvey Livestock, Inc.	Coldwater.
Heinold Hog Market	Eldorado.
Heinold Hog Markets	Gettysburg.
Heinold Hog Market, Inc.	Sedalia.
Interstate Livestock, Inc.	Oxford.
E. Kahn's Sons Company	Cincinnati.
Kleinhenz Brothers Stockyard	Ft. Recovery.
Kleinhenz Brothers Stockyard	Celina.
Kleppel Livestock	Sidney.
*Krugh's Stockyards	Wren.
*Virgil Lampert Stockyards	New Bremen.
Lewisburg N.F.O. Collection Point	Lewisburg.
Lugbill Brothers	Archbold.
Lugbill Brothers	Fayette.

*Donald L. Hart, Jr., and James A. Kincaid, d.b.a. Marietta Livestock Sale Company	Marietta.
*Middendorf Stockyards	Botkins.
*Middendorf, Inc.	Ansonia.
*Middendorf Stockyards	Celina.
*Middendorf Stockyard Company	Fort Laramie.
*Middendorf Stockyards Company, d.b.a. Kenton Farmers Market	Kenton.
Middleton Stockyards, Inc.	New Madison.
*A. E. Miller Livestock	Delphos.
*Ohio Valley Livestock Company	Gallipolis.
Philotha Stockyard	Coldwater.
*Producers Livestock Association	Bucyrus.
*Producers Livestock Association	Cadiz.
*Producers Livestock Association	Caldwell.
*Producers Livestock Association	Eaton.
*Producers Livestock Association	Findlay.
Producers Livestock Association	Greenville.
*Producers Livestock Association	Hillsboro.
*Producers Livestock Association	Lancaster.
Producers Livestock Association	London.
*Producers Livestock Association	Marysville.
*Producers Livestock Association	Mt. Vernon.
*Producers Livestock Association	Orville.
*Producers Livestock Association	Springfield.
*Producers Livestock Association	Wapakoneta.
*Producers Livestock Association	Woodville.
*Vic Ruhe Livestock	Ottawa.
Selected Meat Company	Greenfield.
Leonard B. Stemen, d.b.a. L. B. Stemen Stockyard	Middle Point.
P. B. Stewart	Edon.
Tuente Stockyards	Saint Sebastian.
Tuente Stockyards	Yorkshire.
The Union Stockyards Company	Hillsboro.
Waynesfield Stockyard	Waynesfield.
Werling and Sons, Inc. d.b.a. Burkettville Stockyard	Burkettsville.
*Wilson Brothers, d.b.a. Peoples Livestock Exchange	Greenville.
Jerome Winner Stockyard	New Weston.
Robert F. Winner Sons	Greenville.
Robert Winner Sons, Inc.	Osgood.
*Joe Wood Livestock Market	New Vienna.

Oklahoma

Ag Markets, Inc.	Woodward.
*Antlers Livestock Commission	Antlers.
*Checotah Livestock Auction	Checotah.
*Comanche Hog Sale	Ardmore.
*Comanche Hog Sale	Comanche.
*Delaware County Livestock Auction, Inc.	Grove.
*Durant Stockyards Company	Durant.
*Farmers and Ranchers Livestock Auction	Vinita.
*Ft. Smith Stockyards Company, Inc.	West Ft. Smith.
*Hugo Sales Commission, Inc.	Hugo.
Arthur Kelly Stockyards	Muskogee.
*LeFlore County Livestock Auction	Wister.
Maurer and Neuer	Enid.
*Muskogee Stockyards & Livestock Auction, Inc.	Muskogee.
*Newkirk Sale Company	Newkirk.
*Northeast Oklahoma Feeder Pig and Livestock Market	Leach.
*Oklahoma National Stockyards	Oklahoma City.
Small Hog Company	Alva.
*South Coffeyville Livestock Market, Inc.	South Coffeyville.
*Tahlequah Sale Barn	Tahlequah.
*Welch Livestock Auction	Welch.

Oregon

*Hermiston Livestock Commission Company	Hermiston.
*Northwestern Livestock Commission Company	Hermiston.
*Ontario Livestock Commission Company	Ontario.
*The Portland Livestock Market, Inc.	Portland.
*The Dalles Auction Yard	The Dalles.
*Vale Livestock Auction	Vale.

Pennsylvania

*Belknap Livestock & Equipment Auction	Dayton.
*Belleville Livestock Market, Inc.	Belleville.
Edgar K. Black	Skippack.
K. M. Border Livestock	Dover.
*Carlisle Livestock Market, Inc.	Carlisle.
Cattle Sales, Inc. d.b.a. Scenery Hill Stockyards	Scenery Hill.
*Chambersburg Livestock Sales, Inc.	Chambersburg.

*Chesley's Sales, Inc.	North East.
*Cowanesque Valley Livestock Auction	Knoxville.
Wayne F. Craig & Son	Shippensburg.
*Danville Cattle Company, Inc.	Danville.
*Dewart Livestock Market	Dewart.
*Eighty Four Auction Sales, Inc.	Eighty Four.
*Enon Valley Community Sale	Enon Valley.
*Fayette Stockyards, Inc.	Uniontown.
*G & M Livestock Market, Inc.	Duncansville.
*Greencastle Livestock Market, Inc.	Greencastle.
Green Dragon Livestock Sales	Ephrata.
*Hickory Auction and Sales, Inc.	Hickory.
*C. A. Huishart	Stewartstown.
*Indians Livestock Auction, Inc.	Homer City.
*Jersey Shore Livestock, Inc.	Jersey Shore.
*Keister's Middleburg Auction Sales, Inc.	Middleburg.
*Lancaster Stockyards, Inc.	Lancaster.
*Lebanon Valley Livestock Market, Inc.	Fredericksburg.
*Leesport Market & Auction, Inc.	Leesport.
*Meadville Livestock Auction	Saegertown.
*Mercer Livestock Auction	Mercer.
C. Robert Miller	Watsonville.
Morrison Cove Livestock Market	Martinsburg.
*New Holland Sales Stables, Inc.	New Holland.
*New Wilmington Livestock Auction, Inc.	New Wilmington.
*Nicholson Sales Company	Nicholson.
*Penns Valley Livestock Auction, Inc.	Centre Hall.
*Pennsylvania Livestock Auction, Inc.	Waynesburg.
*Perkiomenville Livestock and Sales, Inc.	Perkiomenville.
*Quakertown Livestock Sale	Quakertown.
*Sechrist Sales Company, Inc.	Fawn Grove.
W. R. Sellers Livestock	Greencastle.
Thomasville Livestock Market, Inc.	York.
*Tri-County Livestock Auction, Inc.	Brockway.
*Troy Sales Cooperative	Troy.
*Union City Livestock Auction	Union City.
Valley Stockyards, Inc.	Athens.
*Vintage Sales Stables, Inc.	Paradise.
*Wayne County Auction Barn, Inc.	Honesdale.
*Wyalusing Livestock Market	Wyalusing.

South Carolina

Central Carolina Livestock Market, Inc.	Lugoff.
Chesnee Livestock Company	Chesnee.
Conway Stockyard	Conway.
Conway Stockyard	Loris.
*Darlington Auction Market	Darlington.
Dorchester Marketing Association	St. George.
*Farmers County Line Stockyards	Andrews.
*Farmers Market	Estill.
Farmers Livestock Market	Leesville.
Florence Union Stockyards	Florence.
Greenwood Stockyards, Inc.	Greenwood.
*Hemingway Livestock Market	Hemingway.
*Hornedown's Stockyards, Inc.	Ehrhart.
Homewood Livestock, Inc.	Conway.
*Hutto Stockyards, Inc.	Holly Hill.
*Jim's Livestock, Inc. (Pig Barn)	Kingstree.
Kingstree Union Stockyard	Kingstree.
M & R Livestock	Neeses.
M & R Livestock Company	Nichols.
M & R Livestock Company	Ruffin.
Neeses Stockyards	Neeses.
*Orangeburg Stockyard, Inc.	Orangeburg.
Piedmont Livestock Center	Laurens.
Saluda County Stockyards	Saluda.
South Carolina Farm Bureau/dba Jim's Livestock	Kingstree.
Spartanburg Livestock Market	Spartanburg.
*Springfield Stockyard, Inc.	Springfield.
S & S Milling Company	Hemingway.
John C. Taylor Stockyard	Anderson.
Walterboro Stockyards Co., Inc.	Walterboro.
York County Stockyards	York.

South Dakota

*Aberdeen Livestock Sales Company, Inc.	Aberdeen.
Armour and Company Hog Buying Station	Aberdeen.
Armour Buying Station	Hudson.
*Belle Fourche Livestock Exchange, Inc.	Belle Fourche.
*Bowdle Livestock Sales, Inc.	Bowdle.
*Brookings Livestock Auction	Brookings.
Brown's Valley Collection Point, Inc. (located in Roberts County, South Dakota)	Brown's Valley.
*Burke Livestock Auction	Burke.
*Canton Livestock Sales Company	Canton.
*Chamberlain Livestock Auction, Inc.	Chamberlain.
Columbia Collection Point	Columbia.
*Corsica Livestock Sales Company	Corsica.
*Edgemont Livestock Commission Company	Edgemont.

*Faith Livestock Commission Company, Inc.	Faith.	*Lexington Sales Company.....	Lexington.	Emporia Hog Market.....	Emporia.
*Fort Pierre Livestock Auction, Inc.	Fort Pierre.	Maxwell Livestock Market.....	Lewisburg.	Esskay Buying Station.....	Caret.
*Gettysburg Livestock Exchange, Inc.	Gettysburg.	Middleton Sales Company.....	Middleton.	Ewing Livestock Market, Inc.	Ewing.
*Gregory Livestock Auction Company.....	Gregory.	*Mid-South Livestock Commission Company.....	Columbia.	Farmers Livestock Market.....	Gale City.
*Hub City Livestock Sales.....	Aberdeen.	*Mid-State Producers Feeder Pig Sale.....	Woodbury.	Farmers Livestock Market, Inc.	Ewing.
*Kramer's Livestock Auction Company, Inc.	Sioux Falls.	*Moody Livestock.....	Newbern.	*Farmers Livestock Exchange, Inc.	Winchester.
*Loken's Watertown Sales Pavilion, Inc.	Watertown.	Morristown Stockyards, Inc.	Morristown.	Farmers Livestock Market.....	Rose Hill.
*Madden's Livestock Auction Market, Inc.	St. Onge.	Murfreesboro Livestock Center.....	Murfreesboro.	Farmers Livestock Market, Inc.	Tazewell.
*Madison Livestock Auction Company.....	Madison.	N.F.O. Buying Station.....	Centerville.	*Farmville Livestock Market.....	Farmville.
*Magness-Huron Livestock Exchange, Inc.	Huron.	New Tazewell Livestock Market.....	New Tazewell.	Fauquier Livestock Exchange, Inc.	Marshall.
*Marshall Livestock Auction Company.....	Britton.	North Central Livestock Center.....	Cross Plains.	Fredericksburg Stockyard, Inc.	Fredericksburg.
*Martin Auction Company, Inc.	Martin.	Northwest Tennessee Livestock, Inc.	Newbern.	Fredericksburg Livestock Exchange, Inc.	Fredericksburg.
*McLaughlin Commission Company, Inc.	McLaughlin.	*Paris Livestock Company of Tennessee, Inc.	Paris.	Front Royal Livestock Exchange, Inc.	Front Royal.
*Mitchell Livestock Auction Co., Inc.	Mitchell.	*People's Stockyard.....	Cookeville.	Galax Livestock Market, Inc.	Galax.
*Mobridge Livestock Auction Sales, Inc.	Mobridge.	Peoples Stockyard.....	Fayetteville.	Halifax Livestock Market.....	Halifax.
John Morrell Hog Buying Station.....	Aberdeen.	Plateau Livestock Exchange.....	Crossville.	Leonard Harrell Livestock.....	Chesapeake.
John Morrell & Company.....	Watertown.	*Pulaski Stockyard.....	Pulaski.	Lawrenceville Hog Market.....	Lawrenceville.
Morrell Buying Station.....	Flandreau.	Rogersville Livestock Market.....	Rogersville.	Jonesville Livestock Market.....	Jonesville.
Owen Livestock Company.....	Britton.	*Scotts Hill Auction Company, Inc.	Scotts Hill.	*Lee Farmers Livestock Market.....	Jonesville.
*Philip Livestock Auction.....	Philip.	*Lonnie Sells.....	Winchester.	Leesburg Livestock Market, Inc.	Leesburg.
*Rapid City Livestock Commission Company.....	Rapid City.	*Selmer Livestock Center.....	Selmer.	Lottsburg Buying Station.....	Lottsburg.
*Sevier County Livestock Association.....	Sevier.	*Sevier County Livestock Association.....	Sevierville.	Lynchburg Livestock Market, Inc.	Lynchburg.
*Shelbyville Livestock Market.....	Shelbyville.	Sevier County Livestock Auction.....	Seymour.	*Madison Livestock Market, Inc.	Madison Mills.
*Smith County Commission Company.....	Carthage.	Shelbyville Livestock Market.....	Shelbyville.	McComb and Block, Inc. (Buying Station, Lawrenceville Hog Market.....	Lawrenceville.
*Smith County Feeder Pig Association.....	Carthage.	*Smith County Commission Company.....	Carthage.	Monterey Livestock Sales, Inc.	Monterey.
Smithville Stockyards.....	Smithville.	*Smith County Feeder Pig Association.....	Carthage.	*Narrows Livestock Auction Market.....	Narrows.
Smithville Livestock Market.....	Smithville.	Smithville Stockyards.....	Smithville.	*Nokesville Livestock Market.....	Nokesville.
*E. H. Smotherman.....	Murfreesboro.	Smithville Livestock Market.....	Smithville.	Orange Livestock Market.....	Orange.
*South Memphis Stockyards.....	Memphis.	*E. H. Smotherman.....	Murfreesboro.	Pearce's Livestock Market.....	Holland.
Southern Livestock Auction Company.....	Columbia.	*South Memphis Stockyards.....	Memphis.	*Petersburg Livestock Market.....	Petersburg.
*Southwestern Sales Company, Inc.	Huntingdon.	Southern Livestock Auction Company.....	Columbia.	Phenix Livestock Market.....	Phenix.
Sparta Livestock Company, Inc.	Sparta.	*Southwestern Sales Company, Inc.	Huntingdon.	Pulaski County Livestock Market.....	Dublin.
Tennessee Livestock Producers, Inc.	Fayetteville.	Sparta Livestock Company, Inc.	Sparta.	Richmond Union Stockyards.....	Richmond.
Tennessee Livestock Producers, Inc.	Thompson.	Tennessee Livestock Producers, Inc.	Fayetteville.	Roanoke-Hollins Stockyard.....	Hollins.
*Tennessee Livestock Producers, Inc.	Woodbury.	Tennessee Livestock Producers, Inc.	Thompson.	Roanoke Livestock Market.....	Roanoke.
Thompson Livestock Company.....	Obion.	*Tennessee Livestock Producers, Inc.	Woodbury.	*Rockingham Livestock Sales, Inc.	Harrisonburg.
Trenton Livestock Sales.....	Trenton.	Thompson Livestock Company.....	Obion.	J. L. Rose Hog Buying Stations.....	Courtland.
*Tri-County Stockyards.....	McKenzie.	Trenton Livestock Sales.....	Trenton.	J. L. Rose Hog Buying Stations.....	Wakefield.
Trousdale County Livestock Market.....	Hartsville.	*Tri-County Stockyards.....	McKenzie.	Saluda Buying Station.....	Glennis.
Troy Livestock Exchange.....	Troy.	Trousdale County Livestock Market.....	Hartsville.	Scott County Livestock Market.....	Gates City.
Union Livestock Yards, Inc.	Knockville.	Troy Livestock Exchange.....	Troy.	Shen-Valley Buying Station.....	Dillwyn.
*Unionville Livestock Market.....	Unionville.	Union Livestock Yards, Inc.	Knockville.	Shen-Valley Buying Station.....	Madison Mills.
*Volunteer Feeder Pig Association.....	Lexington.	*Unionville Livestock Market.....	Unionville.	*Shenandoah Valley Livestock Sales, Inc.	Harrisonburg.
*Dallas Walker Livestock.....	Rutherford.	*Volunteer Feeder Pig Association.....	Lexington.	Smithfield Packing Company Buying Station.....	Courtland.
West Tennessee Auction Company.....	Marlin.	*Dallas Walker Livestock.....	Rutherford.	Smithfield Livestock, Inc.	Smithfield.
*West Tennessee Stockyard.....	Selmer.	West Tennessee Auction Company.....	Marlin.	South Boston Livestock Market, Inc.	South Boston.
Wilson County Livestock Market.....	Lebanon.	*West Tennessee Stockyard.....	Selmer.	*Southampton Stockyards, Inc.	Courtland.
Wilson Livestock Market.....	Newport.	Wilson County Livestock Market.....	Lebanon.	Southampton Peanut Company Buying Station.....	Branchville.
Texas				*South Hill Livestock Market.....	South Hill.
*Cattleman's Livestock Commission Company.....	Dalhart.			Southside Stockyards, Inc.	Blackstone.
*Dalhart Auction Company.....	Dalhart.			*Southside Stockyards, Inc.	Petersburg.
*Fl. Worth Stockyards.....	Fl. Worth.			Staunton Livestock Market, Inc.	Staunton.
*Gainesville Livestock Auction.....	Gainesville.			Staunton Union Stockyards.....	Staunton.
*J & J Livestock Commission Co., Inc.	Taxarkana.			*Tappahannock Livestock Market, Inc.	Tappahannock.
Muenster Livestock Auction.....	Muenster.			Tazewell Livestock Market, Inc.	Tazewell.
Plains Hog Company.....	Lubbock.			*Tidewater Livestock Sales Company.....	Courtland.
Robinson Livestock.....	Booker.			B. C. Umbarger's Assembly Yard.....	Wytheville.
*Texarkana Stockyards Company.....	Texarkana.			Victoria Stockyard.....	Victoria.
Texas Agricultural Marketing and Development Assn.	Amarillo.			*Virginia-Carolina Livestock and Agriculture Market, Inc.	Danville.
Utah				*Walker Brothers Livestock Pavilion.....	Seven Mile Ford.
*Producers Livestock Marketing Association.....	North Salt Lake.			*Woodstock Livestock Market, Inc.	Woodstock.
*Producers Salina Auction.....	Salina.			Wytheville Livestock Market, Inc.	Wytheville.
Utah Sales Barn, Inc.	Roosevelt.			Washington	
Vernal Livestock Auction.....	Vernal.			*Auburn Livestock, Inc.	Auburn.
Vermont				*Prosser Commission Company, Inc.	Prosser.
*East Thetford Commission Sales.....	East Thetford.			*Stockland Union Stockyards.....	Spokane.
*Morrisville Commission Sale, Inc.	Morrisville.			*Sunnyside Livestock Market.....	Sunnyside.
Virginia				*Walla Walla Livestock & Feedlot.....	Walla Walla.
Abingdon Livestock Exchange, Inc./La. Tri-State Livestock Market.....	Abingdon.			West Virginia	
Abingdon Livestock Market.....	Abingdon.			*Bluegrass Market, Inc.	North Caldwell.
Amherst County Livestock Market, Inc.	Amherst.			*Blue Ridge Livestock Sales, Inc.	Charles Town.
Bedford Livestock Market, Inc.	Bedford.			*Jackson County Livestock Market, Inc.	Ripley.
*Blackstone Livestock Market.....	Blackstone.			*Moundsville Livestock Auction Company.....	Moundsville.
C.W.T. Enterprises.....	Amelia.			*Ohio County Livestock Auction.....	Mt. Echo.
Caret Livestock Market.....	Caret.			*Terra Alta Livestock Market, Inc.	Terra Alta.
Charlottesville Livestock Market.....	Charlottesville.			*Terra Alta Stockyards, Inc.	Terra Alta.
Christiansburg Livestock Market, Inc.	Christiansburg.			*United Livestock Sales Company.....	Parkersburg.
Creech Livestock Market, Inc.	South Hill.			Wisconsin	
Culpeper Livestock Exchange.....	Culpeper.			*American Feeder Pig Co-op.....	Blue Mounds.
Eddins Livestock Market.....	Stanardsville.			*American Feeder Pig Co-op.....	Boltonville.
				*American Feeder Pig Co-op.....	Francis Creek.
				*American Feeder Pig Co-op.....	Galesville.
				*American Feeder Pig Co-op.....	Lancaster.
				*American Feeder Pig Co-op.....	Waupaca.

*Belmont Livestock Market.....	Belmont.
Al Berning.....	Cuba City.
Darlington N.F.O. Stockyards.....	Darlington.
Dunwiddle Livestock.....	Brodhead.
Dunwiddle Livestock.....	Juda.
Ellsworth N.F.O. Collection Point.....	Ellsworth.
*Equity Co-op Livestock.....	Johnson Creek.
*Equity Cooperative Livestock.....	Bonduel.
*Equity Co-op Livestock Sales Assn.....	Monroe.
*Equity Co-op Livestock Sales Assn.....	Ripon.
*Equity Co-op Livestock Sales Assn.....	Sparta.
Equity Co-op Livestock Sales Assn.....	West Salem.
Equity Livestock Marketing Co-op.....	Arlington.
*Farmers Livestock Market.....	Rice Lake.
Grant County Livestock Exchange.....	Hazel Green.
Leo Hennessey & Son.....	Cuba City.
Leo Hennessey & Son.....	Shullsburg.
Thomas D. Kane Market.....	Oconomowoc.
Kuehne Livestock & Auction Sales.....	Seymour.
*Midwest Livestock Producers Co-op.....	Dodgeville.
*Midwest Livestock Producers Co-op.....	Marion.
*Midwest Livestock Producers Co-op.....	Etrick.
*Midwest Livestock Producers Co-op.....	Shullsburg.
*Midwest Livestock Producers Co-op.....	Monticello.
*Midwest Livestock Producers Co-op.....	Fannimore.
*Midwest Livestock Producers Co-op.....	Francis Creek.
*Midwest Livestock Producers Co-op.....	Lomira.
Milwaukee Stockyards.....	Milwaukee.
*Gary Nieman.....	Hewitt.
*Tim Orr Livestock Market.....	Weyauwega.
*Peshtigo Livestock Market.....	Peshtigo.
*Gordon Peterson.....	Waupaca.
*Charles Pufahl Market.....	Waupaca.
*Lawrence Richter & Son.....	Rice Lake.
Rock County Reload Market.....	Hanover.
*Donald Schwebs Market.....	De Forest.
*Haulis E. Simon.....	New Richmond.
Emil Treuthardt.....	Juda.
*Ray Wolosek, Jr.....	Wisconsin Rapids.
*Philip C. Ziegler Livestock Market.....	Appleton.

Wyoming

*Douglas Livestock Exchange Company.....	Douglas.
*Gillette Livestock Exchange.....	Gillette.
*Greybull Livestock Auction.....	Greybull.
Pierce Packing Company Buying Station.....	Powell.
*Powell Auction Market.....	Powell.
*Sheridan Livestock Exchange.....	Sheridan.
*Stockgrowers Livestock Auction.....	Worland.
*Stockman Livestock Auction.....	Torrington.
*Torrington Livestock Commission Co.....	Torrington.

The State of New York
The State of South Carolina
The State of Virginia
* * *

(Sec. 2, 32 Stat. 792, as amended, sec. 306, 46 Stat. 689, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 19 U.S.C. 1306, 21 U.S.C. 111, 134a, 134c, 134f, 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 870, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

Done at Washington, D.C., this 5th day of April 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-9517 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-34-M

Soil Conservation Service

AuSable River Access Sites, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:

Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the AuSable River Access Sites RC&D Measure, Oshtemo County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for public water-based recreation. These measures will include: Parking lots for 26 cars and 20 cars with trailers, two boat launching ramps, one canoe beaching area, two toilets, signs, 125-acre seeding and 450 feet of access road. Total construction cost is estimated to be \$69,600; \$34,800 RC&D funds and \$34,800 local funds.

The notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 10, 1982.

Dated: April 2, 1982.
(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse

review of federal and federally assisted programs and projects is applicable)

Homer R. Hilner,

State Conservationist.

[FR Doc. 82-9434 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-16-M

Bear Lake County Road Critical Area Treatment RC&D Measure, Idaho; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Amos I. Garrison, Jr., State Conservationist, Soil Conservation Service, Room 345, 304 North Eighth, Boise, Idaho 83702, telephone (208) 334-1601.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bear Lake County Road Critical Area Treatment RC&D Measure, Bear Lake County, Idaho.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Amos I. Garrison, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

Bear Lake County Road Critical Area Treatment RC&D Measure will control erosion and sediment damage on four critically eroding sites along county roads. Planned treatments include a grade stabilization structure, a vegetated waterway, critical area plantings and grading and shaping.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Amos I. Garrison, Jr. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the address on the first page.

Implementation of the proposal will not be initiated until May 10, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 2, 1982.

Amos I. Garrison,

State Conservationist.

[FR Doc. 82-0435 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-16-M

Perrytown Flood Prevention and Land Drainage, R.C. & D. Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Perrytown Flood Prevention and Land Drainage RC & D Measure, Bertie County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns flood prevention and drainage on cropland, rural residences and State roads. The planned works of improvement includes snagging 12,000 feet of channel to remove debris, restoring 14,700 feet of stream, constructing 21,100 feet of open ditches and to establish 35 acres of permanent vegetation on disturbed areas.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various

Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until May 10, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 1, 1982.

Coy A. Garrett,

State Conservationist.

[FR Doc. 82-0471 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-16-M

Roadbank Stabilization in Henderson County, R.C. & D. Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S.D.A.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Roadbank Stabilization in Henderson County, R. C. & D. Measure, Henderson County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns the reduction or erosion on 44 acres of eroding roadsides by 5,940 tons of soil each

year. The planned works of improvement include seeding the area to adapted vegetation and installing necessary roadditch stabilization on limited areas.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until May 10, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 1, 1982.

Coy A. Garrett,

State Conservationist.

[FR Doc. 82-0472 Filed 4-8-82; 8:45 am]

BILLING CODE 3410-16-M

Guayanes River Watershed, Puerto Rico; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Ivan R. Emmanuelli, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the Commonwealth of Puerto Rico, is hereby providing notification that a record of decision to proceed with the installation of the Guayanes River Watershed project is available. Single copies of this record of decision may be obtained from Ivan R. Emmanuelli at the address shown below.

FOR FURTHER INFORMATION CONTACT: Ivan R. Emmanuelli, Director, Caribbean Area, Soil Conservation Service, G.P.O. Box 4868, San Juan, Puerto Rico 00936, telephone 809-753-4206.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearing house review of Federal and federally assisted programs and projects is applicable)

Dated: March 30, 1982.
 Ivan R. Emmanuelli,
 Director, Caribbean Area.
 [FR Doc. 82-9396 Filed 4-8-82; 8:45 am]
 BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Application for Certificate Authority Under Subpart Q; EOA, Inc.

AGENCY: Civil Aeronautics Board.
ACTION: Notice of Order instituting the EOA Fitness Investigation, 82-4-35, Docket 40507.

SUMMARY: The Board is instituting an investigation to determine the fitness of EOA, Inc. to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii.

DATES: Persons wishing to intervene in the EOA Fitness Investigation shall file their petitions in Docket 40507 by April 19, 1982.

ADDRESSES: Petitions to intervene should be filed in Docket 40507, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on persons listed in the attachment and on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5330.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-4-35 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-4-35 to that address.

By the Civil Aeronautics Board: April 5, 1982.

Phyllis T. Kaylor,
 Secretary.

Service List

Walter E. Collier, Chairman, EOA, Inc.,
 P.O. Box 913, Leesburg, Virginia,
 22075.

Honorable Mayor, City of Washington,
 D.C., Washington, D.C. 20001.

Honorable Mayor, City of Leesburg,
 Leesburg, Virginia 22075.

Honorable Mayor, City of Denver,
 Denver, Colorado 80203.

Honorable Mayor, City of Houston,
 Houston, Texas 77001.

James A. Wilding, Director, Metro
 Washington Airports, Federal
 Aviation Administration, Washington
 National Airport, Washington, D.C.
 20001.

Director, Aviation Department,
 Commonwealth of Virginia, 4508 S.
 Labrum Ave., Richmond, Virginia
 23231.

Texas Aeronautics Commission, P.O.
 Box 12607, Capital Station, Austin,
 Texas 78711.

Honorable W. Clements, Governor of
 the State of Texas, P.O. Box 12428,
 Capital Station, Austin, Texas 78711.

Honorable Richard Lamm, Governor of
 the State of Colorado, State Capitol,
 Denver, Colorado 80203.

Honorable Charles Robb, Governor of
 the Commonwealth of Virginia, State
 Capitol, Richmond, Virginia 23219.

[FR Doc. 82-9685 Filed 4-8-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-4-11; Docket 37943]

Excess-Baggage Charges Proposed by Qantas Airways Limited; Final Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of April, 1982.

By Order 81-3-38, the Board tentatively decided that the excess-baggage tariff proposed by Qantas Airways Limited (Qantas), applicable to stop-over traffic moving on the Hawaii-California segment of an Australia-California journey, was unlawful because the carrier lacked authority pursuant to its section 402 permit to charge separately for the domestic portion of the service. Since that order tentatively disposed of the lawfulness of Qantas' tariff on a basis different from that initially described in the order instituting this investigation,¹ we invited interested persons to comment upon our tentative findings and conclusions.

We have received comments from DHL Corporations (DHL), Japan Air Lines (JAL), Philippine Airlines (PAL), Qantas and Pan American World Airways (PAA).

PAA filed initial and reply comments in support of the Board's position. It agrees that a foreign air carrier's operation is limited to the authority contained in its foreign air carrier permit and that Qantas' permit has never

included an authorization for the proposed excess-baggage service. In addition, PAA argues that the Board's decision in Order 81-3-38 does not result in an alteration of Qantas' permit without statutory notice and hearing since the permit never included such rights.

The remaining parties argue that the right to provide services in air transportation includes the right to charge for such services, which they believe the Board's tentative findings would deny. They also state that the Board cannot preclude the carriage of excess stop-over baggage since it is a service associated with the lawful carriage of passengers. In addition, Qantas argues that the right to charge for services provided solely on the domestic segment of an international trip, such as upgrading from coach to first class, is not statutorily prohibited, and that the Board's denial of such authority would produce anomalies for passenger charges and services depending on whether the passenger is traveling to or from the United States. Qantas also contends that the Board's tentative findings and conclusions would violate the Act and the U.S.-Australia Air Transport Agreement because the permit would be summarily altered in violation of section 402(f) of the Act² and without the bilateral consultations required by Section VII of the Agreement.³ In addition, JAL and PAL jointly contend that the authority to carry stopover traffic is a right, rather than a privilege, which the Board cannot unilaterally withhold since it is indissolubly linked with the right to carry traffic.

We have carefully reviewed the comments submitted in response to Order 81-3-38. No party has shown that any section 402 permit has ever been interpreted to authorize a foreign air carrier to establish separate charges for services only provided on the domestic segment of an international journey. No party has alleged that such a tariff has ever before been filed, permitted to go into effect, or interpreted to be among the privileges included in a 402 permit. Indeed, as all parties recognize, this is a case of first impression.

The objectors' contention that our tentative decision denies Qantas, and any other carrier filing similar fares, the

¹Section 402(f) of the Act provides, *inter alia*, that the Board may alter or amend a permit only after notice and hearing.

²The bilateral agreement provides that prior to the imposition of permit conditions due to the carrier's violations of the Act or regulations, the home government must be granted an opportunity to request and have consultations.

³By Order 80-3-145, the Board instituted an investigation to determine whether Qantas' proposed excess-baggage tariff was lawful. We initially framed the issue to be decided as whether the Qantas tariff violated section 1108(b) of the Act.

authority to carry excess baggage or to cover costs for services rendered over the domestic segment of an international journey is erroneous. Qantas is free to carry excess baggage over any flight segment and to charge passengers for the services provided. We merely state that the appropriate fare to assess passengers for any portion of a journey between Australia and California is the fare published for excess baggage moved between authorized points in Australia and points in the United States.⁴ As we stated in Order 81-3-38, "... charges published for an international journey between a foreign point and a U.S. point of origin or destination encompass the stop-over passenger's carriage between two U.S. points since that portion of the trip is considered to be in foreign air transportation." While Qantas is free to construct its fares for passenger, cargo, or excess baggage transportation based upon a combination of the international and domestic segment costs, it may not establish a different fare or rate for only the domestic segment. This authority is not contained within the rights or privileges inherent in foreign air carrier permits. We recognize that our conclusion may produce different results for persons moving in opposite directions over the same route. Qantas may exact a separate excess baggage charge from stop-over passengers at intermediate points within the United States only if they are traveling to a foreign point, and not if they are traveling in the other direction to another domestic point. However, that situation is no different from all other types of traffic carried by foreign direct air carriers, because they are precluded from charging for services only between U.S. points.⁵

Qantas' contention that our decision amends its permit in violation of statutory and bilateral agreement provisions is incorrect. Our decision does not amend, revoke or alter in any manner the authority previously awarded to Qantas in its section 402 permit, since we conclude that such authority was never previously granted. Indeed, no foreign air carrier has claimed or tried to exercise such authority prior to this instance. We are merely returning the carrier to its position prior to our provisional acceptance of its proposed domestic

segment tariff. Thus, our determination here does not affect the permit in a manner which would invoke section 402(f) procedures or require consultations pursuant to the agreement.

With regard to the contention of JAL and PAL that stop-over authority is a right, rather than a privilege, we see no need to reach that issue here. We are not restricting the authority of any foreign air carrier to carry stop-over traffic, so the issue is not relevant to the case at hand.

Accordingly

1. We make final our tentative findings and conclusions set forth in Order 81-3-38 that the excess-baggage tariff proposed by Qantas Airways Limited for the California-Hawaii segment of an Australia-California journey is unlawful;

2. We shall serve this order on Pan American World Airways, Inc., DHL Corporation, Qantas Airways Limited, Japan Air Lines Company, Ltd. and Philippine Airlines.

This order will be published in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-9684 Filed 4-8-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Changed Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee of the Commission originally scheduled for April 22, 1982, at Los Angeles, California, (FR Doc. 82-8621, 47 FR 13546; March 31, 1982, has been changed.)

The meeting will be held on April 19, 1982, at the same time and location.

Dated at Washington, D.C., April 6, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-9680 Filed 4-8-82; 8:45 am]

BILLING CODE 6335-01-M

Louisiana Advisory Committee; Changed Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee of the Commission (47 FR 13851; April 1, 1982) has been changed from April 15, 1982 to April 15, 1982,

from 8:30 a.m., until 5:00 p.m., and will continue after a break at 7:00 p.m., until 10:00 p.m. There are no other changes.

Dated in Washington, D.C., April 6, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-9673 Filed 4-8-82; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 4:00 a.m., and will end at 5:30 p.m., on May 10, 1982, at the Providence Human Relations Commission, 40 Fountain Street, Providence, Rhode Island, 02903. The Subcommittee will meet to discuss program planning and Committee reports on affirmative action, political participation, and police practices.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dorothy Davis Zimmering, 12 Chapin Road, Barrington, Rhode Island, 02806, (401) 245-3515 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 6, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-9674 Filed 4-8-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Sorbitol From France; Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Antidumping Duty Order.

SUMMARY: In separate investigations, the U.S. Department of Commerce ("the Department") and the U.S. International Trade Commission ("ITC") have determined that sorbitol from France is being sold at less than fair value and that these sales are materially injuring a U.S. industry. Therefore, all unappraised entries of this merchandise made on or after November 30, 1981—the date from which final assessment of duty has been

⁴See Rule No. 16 ATC CAB No. 55.

⁵Qantas' analogy of excess baggage charges to first-class upgrades fails because the carrier's hypothetical has no foundation. Qantas has pointed to no tariff by a foreign air carrier which describes a separate charge for upgrades to first-class service for only a domestic U.S. route segment, and we are not aware of any.

suspended—will be liable for the possible assessment of antidumping duties. Further, a deposit of estimated antidumping duties must be made on all such entries made on and after publication of this order in the Federal Register.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, (202) 377-1273.

SUPPLEMENTARY INFORMATION: On November 30, 1981, we published our preliminary determination that sorbitol imported from France was being, or was likely to be, sold in the United States at less than fair value (46 FR 58134). On February 8, 1982, we announced our final determination that these imports were being sold at less than fair value (47 FR 6459).

In accordance with section 735(b) of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673d(b)), the ITC determined that an industry in the United States is being materially injured by reason of imports of sorbitol from France. On March 29, 1982, it notified us of this decision.

In accordance with section 736 of the Act (19 U.S.C. 1673e), I am directing U.S. Customs officers to assess an antidumping duty equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price for all entries of sorbitol as herein defined, imported from France. This order applies to all entries subject to the "suspension of liquidation" notice published in the Federal Register on November 30, 1981 (46 FR 58134) and all future entries of said merchandise until further notice.

For the purpose of this notice, sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is commercially available in two forms: (1) Crystalline sorbitol, used in the production of sugarless gum, candy, groceries and pharmaceuticals and (2) liquid sorbitol used in cosmetics and toiletries (such as toothpaste). Sorbitol is currently classified under item 493.6820 of the *Tariff Schedules of the United States Annotated*.

On or after the date of publication of this notice, Customs officers shall require, at the same time as importers deposit their estimated normal customs duties on the merchandise, an additional cash deposit of estimated dumping duties in the amount of 5.5 percent of the f.o.b. value for liquid sorbitol and 2.9 percent of the f.o.b. value for crystalline

sorbitol, pending final liquidation of entries.

I hereby make public this determination, which constitutes an antidumping duty order with respect to sorbitol from France pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within twelve months of the publication of this order as provided in section 751 of the Act (19 U.S.C. 1675).

We have deleted from the Commerce Regulations Annex I to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

April 2, 1982.

[FR Doc. 82-9681 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-25-M

Cotton Yarn From Brazil; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On July 30, 1981, the Department of Commerce published in the Federal Register a notice of the preliminary results of its administrative review of the countervailing duty order on cotton yarn from Brazil. The review is based upon information for the period October 1, 1979 through December 31, 1980. The notice stated that the Department had preliminarily determined that, although there were no shipments to the United States during the review period, there existed a potential net subsidy on future entries of 9 percent of the f.o.b. invoice price of this merchandise. Interested parties were invited to comment on these preliminary results. After analysis of all comments received, the Department determines that a cash deposit of estimated countervailing duties of 3.55 percent *ad valorem* will be required on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley, Office of Compliance, Import Administration, International

Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1767).

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 38944) a notice of the preliminary results of its administrative review of the countervailing duty order on cotton yarn from Brazil (T.D. 77-87, 42 FR 14089). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are cotton yarn imported directly or indirectly from Brazil. Cotton yarn is currently classifiable under item numbers 300.60 through 302.98 of the Tariff Schedules of the United States.

This review covers the period October 1, 1979, through December 31, 1980, and is limited to benefits which were available under programs for preferential financing of exports and an income tax exemption for export earnings.

Analysis of Comments Received

Subsequent to the publication of the preliminary results, the Government of Brazil submitted comments contesting the Department's methodology for calculating the estimated countervailing duty deposit rate.

(1) Working capital financing at rates lower than those commercially available:

The Brazilian government stated that the Department calculated the deposit rate of estimated countervailing duties for future entries based upon the maximum level of utilization possible under the preferential financing program rather than on the actual historical level of utilization and that in doing so the Department made unrealistic assumptions (1) that all loans for which a firm is eligible will be utilized, (2) that each loan made under this program will have a duration of one full year, and (3) that there will be no growth in the value of exports over the previous year. The Government of Brazil stated that this procedure is a deviation from the Department's usual one and fails to recognize that underutilization of preferential financing program is normal and a reasonable projection of future utilization.

In the preliminary results the Department eschewed its normal procedure of calculating estimated countervailing duty deposit rates by projecting results from the review period

because we believed that the maximum level of utilization of 40 percent of the value of each firm's previous year's exports would most accurately anticipate the results of future reviews.

Upon reexamination of information from the original investigations in this and other Brazilian countervailing duty cases, and using corrected information from one of the other annual reviews of these cases, we have concluded that underutilization of the program is not unusual and that using the most recent actual utilization data is preferable to assuming full utilization when calculating the estimated countervailing duty deposit rate in this case. Using data for calendar year 1979, we have found that firms utilized preferential financing for approximately 14 percent of the value of their previous year's exports. Using this utilization level and multiplying it by the preferential interest rate differential of 22.5 percent discussed in our notice of preliminary results, we determine potential benefits under this program to be 3.28 percent of the f.o.b. invoice price.

(2) Income tax exemption for export earnings:

Although there were no comments, we have reconsidered our preliminary determination not to consider potential benefits under this program for future entries because of the absence of shipments and lack of current information. Because of our agreement with the use of actual data for a previous period in projecting benefits under the preferential financing program, we have decided that consistency dictates the application of historical data to this program also. Using the benefit rate for this program included in the final rate published in the order as the most recent historical data, we determine potential benefits under the income tax exemption program to be 0.27 percent of the f.o.b. invoice price.

Final Results of the Review

As a result of our review, we determine the aggregate potential rate of subsidy to be 3.55 percent *ad valorem* of future entries. No countervailing duties are assessable for the period December 7, 1979 through December 31, 1980, since there were no exports of cotton yarn from Brazil to the United States during that period.

The Department will instruct the Customs Service to liquidate all unliquidated entries of cotton yarn exported from Brazil before December 7, 1979 according to instructions in Federal Register notices dated February 26, 1980 (45 FR 12413), September 28, 1979 (44 FR 55825), July 3, 1979 (44 FR 38839), June

21, 1977 (42 FR 31449), and March 15, 1977 (42 FR 14089).

Further, as provided by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Customs Service will collect a cash deposit of estimated countervailing duties of 3.55 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results.

This deposit requirement will remain in effect until publication of the final results of the next administrative review. The Department intends to begin the next review immediately after the publication of this determination. The suspension of liquidation previously ordered will continue for all shipments of cotton yarn exported from Brazil on or after January 1, 1981.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

April 6, 1982.

[FR Doc. 82-9672 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-25-M

Fireplace Mesh Panels From Taiwan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: We have determined that fireplace mesh panels from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are directing the U.S. Customs Service to require a cash deposit, bond, or other security in an amount equal to 6.4 percent of the f.o.b. value of fireplace mesh panels manufactured by the Taiwanese Company, Yeh Sheng Wire Mesh & Screen Co., Ltd. ("Yeh Sheng"). For fireplace mesh panels manufactured by other companies in Taiwan and imported into the United States, except for such merchandise manufactured by Fuan Da Industrial Co., Ltd. ("Fuan Da"), we are requiring security in the amount of 4.7 percent of the f.o.b. value based on the weighted-average margin. For Fuan Da we are establishing a zero duty rate. The U.S. International Trade Commission (the "ITC") will determine within 45 days of the publication of this notice whether these imports are

materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone, (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Case History

On August 11, 1981 we received a petition in proper form from International Management Service Associates, Inc. of Sinking Spring, Pennsylvania. The petitioner alleged that fireplace mesh panels from Taiwan were being sold in the United States at less than fair value, and that such sales were materially injuring a U.S. industry. The petitioner found evidence of sales at less than fair value by comparing the purchase price of the goods in question with their constructed value.

After reviewing the allegations and supporting information in the petition, we determined that the petition contained sufficient grounds upon which to warrant the initiation of an antidumping investigation.

Therefore, we notified the U.S. International Trade Commission ("ITC") of our determination, and on September 8, 1981, we announced the initiation (46 FR 44805). On September 24, 1981, the ITC preliminarily found that there is reasonable indication that these imports are materially injuring a U.S. industry (46 FR 49679-83).

On January 22, 1982, we published our preliminary determination that fireplace mesh panels from Taiwan were being sold in the United States at less than fair value (47 FR 3153-55). Our notice gave interested parties an opportunity to submit written and oral views. We held a public hearing on February 12, 1982.

In our preliminary determination, we indicated that we would reach a final determination in this case by April 2, 1982. This date should have read April 5, 1982.

Scope of the Investigation

For purposes of this investigation, fireplace mesh panels are defined as pre-cut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplaces. Zero-clearance fireplaces are defined as prefabricated fireplaces which are

constructed in such a way that they can be placed into the structure of a house with zero clearance, i.e., they can be in direct contact with the floors and walls and do not require insulation such as brick or stone. Fireplace mesh panels are currently classifiable under items numbers 642.8700 or 654.0045 of the *Tariff Schedules of the United States Annotated*, depending on their stage of processing.

The only known manufacturers of fireplace mesh panels in Taiwan during the period of investigation are Fuan Da Industrial Co., Ltd. and Yeh Sheng Wire Mesh & Screen Co., Ltd.

This investigation covers the period of March 1, 1981–August 31, 1981.

Methodology for Fair Value Comparison

In making fair value comparisons, we compared United States price with the foreign market value.

U.S. Price

To determine the United States price of the merchandise, we used purchase price, as defined in section 772(b) of the Tariff Act of 1930, as amended ("the Act"), because the merchandise was sold to an unrelated U.S. customer at a price agreed upon before it was imported into the United States.

We calculated the purchase price on the basis of the price to unrelated Taiwanese exporters with deductions, where appropriate, for inland freight, bank service charges, commissions, and Customs brokerage fees.

Foreign Market Value

To arrive at the foreign market value of fireplace mesh panels, we used constructed value, as defined in section 773(e) of the Act, because there were no substantiated sales of fireplace mesh panels in the home market or to third countries.

We constructed the foreign market value of the fireplace mesh panels on a company-by-company basis. We calculated the constructed value on the basis of the cost of materials, cost of fabrication, general, selling and administrative expenses, profit, and the cost of packing. Where actual costs or expenses were not available, we used the best information available in accordance with section 776(b) of the Act. In the case of Yeh Sheng Wire Mesh & Screen Co., Ltd. ("Yeh Sheng"), for general expenses, selling expenses, and administrative expenses ("G.S. & A.") and profit, we applied the statutory minimums of 10 percent and 8 percent, respectively. In the case of Fuan Da, where the manufacturer's G.S. & A. cost exceeded the statutory minimum for a given sale, we applied the actual G.S. &

A. Where Fuan Da's G.S. & A. costs were below the statutory minimum for a given sale, we applied the statutory minimum of 10 percent. We applied the statutory profit of 8 percent on all sales.

Fuan Da

In calculating Fuan Da's factory overhead costs, we dismissed the company's contention that it had no repair and maintenance costs and applied those of Yeh Sheng, with an appropriate proration for Fuan Da's lower sales volume of fireplace mesh panels. Fuan Da also experienced a 3–5 percent steel wire scrap loss. We therefore took the average scrap cost, 4 percent, and added that to the steel wire unit price in calculating material costs. With respect to Fuan Da's pallet costs, the company purchased lumber and made its own pallets. Although the firm was able to document the cost of the lumber, it claimed that it had no records or means of allocating the labor costs for constructing the pallets. Consequently, we applied Yeh Sheng's pallet costs from an unrelated supplier, less 8 percent profit, to calculate Fuan Da's pallet costs. Fuan Da claimed that its packing labor costs represented half the piecework wage paid to its workers. As the firm was unable to document this claim and, as the amount claimed was similar to the amount documented by Yeh Sheng for their spiral-making, we applied Yeh Sheng's documented packing labor costs to calculate Fuan Da's packing labor costs and applied the full Fuan Da piecework wage to spiral-making.

Yeh Sheng

Yeh Sheng also experienced a 3–5 percent steel wire scrap loss. We therefore took the average scrap cost, 4 percent, and added that to the steel wire unit price in calculating material costs. We were unable to obtain documentation for factory building rental expenses incurred by Yeh Sheng. Therefore, we applied the building rental expense of a similar facility which Yeh Sheng rented for storage to represent the above factory building rental expenses.

Issues

In response to our preliminary determination of sales at less than fair value, the petitioner submitted a prehearing brief and presented oral arguments. Respondents are not represented by counsel and did not make a presentation at the hearing. The issues raised by the petitioner are outlined as follows:

1. Petitioner claims that the Taiwanese manufacturers' data is

incomplete or inadequate in the following ways:

(A) Key components of constructed value have not been adequately summarized and made available to the public;

(B) "Great disparities" exist between certain information (concerning quantities) supplied to the Department of Commerce by our sources in Taiwan and that gathered by the verifying officers of the Department of Commerce.

DOC position: In answer to "A" above, we maintain that the respondents have made available to the petitioner a non-confidential summary of their confidential response to the Department that meets the standards of sufficiency and adequacy as specified by the Act. Specifically, the law requires that respondents index or provide figures within 10% of the actual figures. With respect to constructed value unit prices, the respondents have substantially complied with that requirement of the law.

Our response to "B" above is twofold: (1) Initial information reported from our sources in Taiwan indicated that the volume of "exports" was 311,000 units to the U.S. during the period of investigation; whereas, for our purposes, we are required to consider the amount and particulars with respect to individual "sales" (236,980 units) that occurred during the period of investigation. This latter data was obtained by our verifying officers on two separate verification trips. We have raised questions, examined general ledgers, and obtained documents which support the respondents' sales figures. Furthermore, we checked sales records, tax returns and sales ledgers. (2) Since our preliminary determination, one of the two companies has acknowledged the existence of additional sales that had not been previously reported to us. The U.S. Customs Service has not reported additional importations of the subject merchandise.

2. Petitioner alleges that there exists a relationship between Fuan Da and Yeh Sheng.

DOC position: Although both firms do business with one another, we have insufficient evidence that they are "related" to each other within the definition of "related" in section 773(e)(3) of the Act. We raised this question initially at the presentation of the questionnaires on September 4, 1981 and on two subsequent verification trips to Taiwan in October 1981 and February 1982. The company officials at both companies denied that they conduct business between themselves in any

other way than in an arms-length manner.

With respect to the petitioner's claim that there might exist hidden credits, rebates, or subsidized discounts, we have no information to substantiate this claim after conducting two on-site verifications of the records of the firms under investigation.

3. The petitioner claimed that the Taiwanese manufacturers understated their raw material costs and that DOC should consider using Trigger Price Mechanism ("TPM") f.o.b. producers' prices for steel wire.

DOC position: Taiwanese purchasers of steel wire are not required to purchase their steel wire at TPM prices. In developing a constructed value, we considered the actual costs to the manufacturer. Historically, we have accepted and verified respondent's presentation of bona fide original invoices, sales ledgers, and corporate tax returns as sufficient proof of the price paid for raw materials. In this case, we verified and are satisfied as to the validity of these documents.

In order to confirm that the prices of steel wire purchased by Fuan Da and Yeh Sheng were at market prices, we visited a steel wire producer, Teh Wei Steel Industrial Co., Ltd., and examined invoices to various purchasers of steel wire, including Fuan Da and Yeh Sheng, all of whom paid prices in the same range for steel wire. The prices at which Fuan Da and Yeh Sheng claim to purchase steel wire are similar to those prices. Based on the documents we reviewed in the course of the verification, we have accepted the respondents' raw material cost figures as verified.

4. Petitioner claims that the Taiwanese manufacturers understated their labor costs by not fully including fringe benefits.

DOC position: Our investigation shows that factory workers in the companies under investigation are paid on a piecework basis and are provided a lunch paid for by the company. The cost of this lunch is included in the constructed value. The responses do not show, nor could we find evidence that additional fringe benefits, other than miscellaneous gifts such as gifts for birthdays or weddings, were given to employees during the investigative period. We included these miscellaneous items in the constructed value.

5. Petitioner claims that the Department should reject the assembly labor rate charged by the "vocational training centers" to Fuan Da and Yeh Sheng. He claims that the assembly labor rate is artificially low and not "in

the ordinary course of business", based on his belief that the "vocational training centers" are using convict labor.

DOC position: Is is the long standing practice of the Department to base its constructed value calculations on those verified, actual costs incurred by respondents in manufacturing the merchandise under investigation. That is what we did in this case. The Department does not have the authority to begin an investigation to determine the existence of convict labor. We referred the petitioner to the U.S. Customs Service, which has jurisdiction over this matter.

6. Petitioner asserts that the Tah Chung Iron of Superior Quality Co., Ltd. ("Tah Chung"), Taiwan, manufactures and exports to the United States fireplace mesh panel, and that we overlooked this company in our preliminary determination.

DOC position: We initially raised this question at the time for the presentation of questionnaires in September 1981, at which time Tah Chung was present. We visited Tah Chung's office in Taipei in October 1981 and asked a company official whether the firm manufactured fireplace mesh panel during the period of investigation; the reply was negative. We looked into this question further at our reverification in Taiwan in February 1982 and again spoke to a Tah Chung official who denied that his firm manufactured fireplace mesh panel during the period of investigation. Tah Chung does, however, export fireplace mesh panels for Fuan Da and Yeh Sheng.

7. Petitioner asks that the *Tariff Schedules of the United States* be amended in such a way as to place fireplace mesh panels in a separate annotation. Petitioner also asked that the rate of duty be based on a square foot *ad valorem* rate rather than the current per unit basis.

DOC position: The Department of Commerce does not have the authority to amend the *Tariff Schedules of the United States*. We advised the petitioner to address his request to change the basic classification or rate of duty to the ITC or to the Congress.

8. Petitioner proposes that the G.S.P. status of fireplace mesh panels, imported under Tariff Schedule item numbers 842.8700 and 654.0045, be revoked.

DOC position: The Department of Commerce does not have the authority to determine the G.S.P. status of items. We advised the petitioner to address his request to the Office of the United States Trade Representative.

Verification

In accordance with section 776(a) of the Act, we verified all information used in making this determination. We were granted access to the books and records of the two foreign manufacturers. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and randomly selected documents containing relevant information.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that fireplace mesh panels from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act. We have found a weighted-average margin for the two companies of 4.7 percent. Margins for Yeh Sheng Wire Mesh & Screen Co. Ltd. range between 0.2-36.7 percent, with a weighted-average margin of 6.4 percent. We did not find margins with respect to sales made by the Fuan Da Industrial Co., Ltd. We are establishing a zero duty rate for this firm to enable us to monitor possible diversions of merchandise. The weighted-average margin of 4.7 percent should be used by the U.S. Customs Service as the security amount for manufacturers in Taiwan other than Yeh Sheng and Fuan Da. The security amounts established in our preliminary determination of January 22, 1982 are no longer in effect.

ITC Notification

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on all fireplace mesh panel from Taiwan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by

which the foreign market value of the merchandise exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

April 5, 1982.

[FR Doc. 82-9071 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Operational Specifications for Fixed Block Rotating Mass Storage Subsystems; Proposed Federal Information Processing Standard

Under the provisions of Public Law 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform automatic data processing standards. A single standard is proposed for Federal use which encompasses two distinct classes of fixed block rotating mass storage subsystems. One of these classes provides only for a block size of 512 bytes, while the other is user formatable to any single block size in the range from 1 to 65,535 bytes in addition to providing the capability for a block size of 512 bytes.

This standard for fixed block rotating mass storage subsystems will be used with four existing Federal Information Processing Standards (FIPS). On February 16, 1979, notice was given in the *Federal Register* (44 FR 10098-10101) announcing that the Secretary had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60 (which has been redesignated 60-1), FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the *Federal Register* (44 FR 50078-50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

These standards were the subject of corrections and revisions announced in the *Federal Register* on August 27, 1979 (44 FR 50079-50080), August 31, 1979 (44 FR 51294), and on December 3, 1979 (44 FR 69317).

These standards were also the subject of a notice in the *Federal Register* on April 30, 1980 (45 FR 28789-28792) in which the National Bureau of Standards (NBS) announced that it was considering a related operational standard for Fixed Block Rotating Mass Storage Subsystems.

A notice published in the *Federal Register* on December 22, 1980 (45 FR 84115) announced the availability of a preliminary draft Operational Specifications for Fixed Block Rotating Mass Storage Subsystems for informal technical review. That review was completed and a revised version of the Operational Specifications for Fixed Block Rotating Mass Storage Subsystems was prepared.

A notice published in the *Federal Register* on June 18, 1981 (46 FR 31911-31912) proposed to issue a Federal Information Processing Standard, Operational Specifications for Fixed Block Rotating Mass Storage Subsystems and requested the comments of interested parties. A substantial body of comments was received; these comments were reviewed and have resulted in additional revisions to the proposed standard. This notice now proposes to issue a Federal Information Processing Standard, Operational Specifications for Fixed Block Rotating Mass Storage Subsystems.

Prior to submission of this proposed standard to the Secretary for approval as a Federal Information Processing Standard, it is essential to assure that proper consideration is given to the needs and views of the public, State and local governments, and manufacturers. It is appropriate at this time to solicit such views.

The proposed Federal Information Processing Standard may be considered an alternative to FIPS 63, Operational Specifications for Rotating Mass Storage Subsystems; that is, it may be used in lieu of FIPS 63 where the use of FIPS 63 would otherwise be required.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain a copy of the specification section of this standard from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, ATTN: FBRMS, Washington, D.C. 20234.

Written comments on this proposed standard should be submitted to the Director, Institute for Computer Sciences and Technology at the above address. Comments to be considered must be received on or before July 8, 1982.

Persons desiring further information about this standard may contact Mr. William E. Burr, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3723.

Dated: April 5, 1982.

Ernest Ambler,

Director.

Federal Information
Processing Standards Publication

(Date)

Announcing the Standard for
Operational Specifications for Fixed
Block Rotating Mass Storage
Subsystems

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Operational Specifications for Fixed Block Rotating Mass Storage Subsystems (FIPS PUB —).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard defines the peripheral device dependent operational interface specifications for connecting fixed block rotating mass storage equipment as a part of automatic data processing (ADP) systems. It is to be used together with FIPS PUB 60-1, I/O Channel Interface, and FIPS PUB 61, Channel Level Power Control Interface. This standard, together with these two referenced standards provides for full plug-to-plug interchangeability of fixed block rotating mass storage equipment as a part of ADP systems. FIPS PUB 63, Operational Specifications for Rotating Mass Storage Subsystems, provides, together with FIPS PUB 60-1 and FIPS PUB 61 for plug-to-plug interchangeability of variable block rotating mass storage equipment as a part of ADP systems. This standard may be applied in lieu of FIPS PUB 63, whenever FIPS PUB 63 would otherwise

be required, at the discretion of procuring agencies.

The Government's intent in employing this standard for Fixed Block Operational Specifications for Rotating Mass Storage Subsystems is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer systems components at the time of initial system acquisition, as well as in system augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting fixed block rotating mass storage peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. Not applicable.

Applicability. Either this standard or FIPS PUB 63, or both, is applicable to the acquisition of rotating mass storage equipment whenever the use of Federal Information Processing Standard I/O Channel Interface (NBS FIPS PUB 60-1) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of the following NBS document: Operational Specifications for Fixed Block Rotating Mass Storage Subsystems, Rev. 5.

Implementation. The provisions of this standard become effective on the date of the announcement of its approval, by the Secretary of Commerce, in the Federal Register.

All applicable equipment ordered on or after the effective date, including procurement actions for which solicitation documents have not been issued by that date, may conform to the provisions of this standard rather than the provisions of FIPS 63. (The provisions of FIPS 63 have been in effect since June 23, 1980.) Such equipment or actions must conform to the provisions of this standard, or FIPS PUB 63, unless a waiver has been granted in

accordance with the procedures described elsewhere in this publication.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this publication, so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) a description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standard Publication — (NBS-FIPS-PUB—). Operational Specifications for Fixed Block Rotating Mass Storage Subsystems. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S.

Department of Commerce, Springfield, Virginia 22161, telephone: (703) 487-4650.

(FR Doc. 82-9621 Filed 4-8-82; 8:45 am)

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Placement of Fagatele Bay, American Samoa, on the Marine Sanctuary List of Recommended Areas and Initiation of Preliminary Consultation

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NOAA has received a recommendation that Fagatele Bay on Tutuila Island, American Samoa, be designated a National Marine Sanctuary. NOAA has reviewed the information provided with the recommendation and finds that the site meets the requirements set forth in § 922.21(b) of the marine sanctuary program regulations for placement on the List of Recommended Areas (LRA). Placement on the LRA is a requisite step in the process leading to designation as a marine sanctuary. However, the action to list a site is only preliminary and does not imply that designation will necessarily follow. Before further steps can be taken, additional information and comments will be requested by NOAA on the feasibility and desirability of establishing the proposed site as a National Marine Sanctuary. NOAA, at this time, also requests additional information on the proposed site and comments concerning the feasibility and desirability of designating Fagatele Bay, American Samoa, as a National Marine Sanctuary.

FOR FURTHER INFORMATION CONTACT:

Kelvin Char, Regional Sanctuary Projects Manager, Sanctuary Programs Office, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven St., NW, Washington, D.C. 20235, (202) 634-4263.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA), as amended (16 U.S.C. 1431-1434) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as national marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or aesthetic values.

In March 1982, the Office of Coastal Zone Management (OCZM) received a marine sanctuary nomination from Governor Peter T. Coleman of American Samoa. The information provided in the proposal described the physiography of Fagatele Bay, its past and current use, the purposes that would be served through its designation, and how the proposed area would be managed if it were accorded marine sanctuary status.

The proposed site, located on an undeveloped portion of the southwest coast of Tutuila, the largest and most populated island in American Samoa, is a 163-acre embayment that was formed in recent geologic times when the ocean flooded the breached Fagatele Crater. The waters of the bay lie entirely within the jurisdiction of the American Samoa Government (ASG) and have remained pristine due to the remnant crater's steep, high walls which limit overland access. Before the bay was infested by the crown-of-thorns starfish (*Acanthaster planci*) in late 1978, it supported a high diversity and abundance of hermatypic corals and associated tropical reef fauna, including the endangered hawksbill turtle (*Eretmochelys imbricata*). As a result of this infestation, only 10 percent of the corals remain. Recent studies, however, indicate that the corals are beginning to recover. This occurrence provides a unique opportunity to examine the ecological dynamics of marine systems that have been impacted by natural biogenic phenomena. Research findings in Fagatele Bay would be widely applicable throughout the Pacific in assisting in the management and restoration of similarly affected areas.

The bay's pristine nature and natural resources and processes have attracted the interest and concern of many persons and Federal and Territorial agencies who, consequently, have recommended that it be given special status and managed accordingly. The Development Planning Office (DPO) of the ASG has been considering Fagatele Bay as a Special Area under the provisions of the American Samoa Coastal Management Program (ASCMP) and, therefore, is proposing to work with NOAA on a management plan for preserving and protecting the bay and its natural resources. Fagatele Bay, therefore, is being added to the LRA.

The recommendation has been reviewed and found eligible for placement on the LRA by meeting the following site evaluation criteria cited in § 922.21(b) of the marine sanctuary program regulations:

1. Important habitat on which any of the following depend for one or more life cycle activity, including breeding,

feeding, rearing young, staging, resting, or migrating:

(i) *Rare, endangered, or threatened species:* Endangered species observed in the waters and vicinity of Fagatele Bay include the hawksbill (*Eretmochelys imbricata*) and leatherback (*Dermochelys coriacea*) turtles and several species of great whales such as the sperm (*Physeter catodon*), blue (*Balaenoptera musculus*), finback (*B. physalus*), sei (*B. borealis*), right (*Balaena glacialis*), and humpback (*Megaptera novaeangliae*). The bay also provides habitat for the threatened green sea turtle (*Chelonia mydas*), loggerhead (*Caretta caretta*) and Pacific ridley (*Lepidochelys olivacea*) turtles.

(ii) *Species with limited geographic distribution:* The coastal forest surrounding the bay, between Seumato Ridge and Fagatele Point, is the main roost for the endemic flying fox, or native fruit bat (*Pteropus samoensis*) in American Samoa. One of only three mammals native to the Samoan Islands, the South Pacific Commission in 1981 cited the presence of this animal's habitat along with bird nesting areas at Fagatele Point as reasons to manage and protect the area, including the marine aquatic resources of the bay upon which such species depend.

(iii) *Species rare in the waters to which the Act applies:* The waters of and the vicinity surrounding Fagatele Bay host several species of cetaceans including the Pacific bottlenose (*Tursiops truncatus*) and spinner (*Stenella* sp.) dolphins in addition to the great whales cited above. The endangered hawksbill and leatherback also frequent the waters of the bay.

2. *A marine ecosystem of exceptional productivity indicated by an abundance and variety of marine species at the various trophic levels of the food web:*

The coral reefs, with their enormous rates of organic production, are among the most biologically productive of all natural ecosystems. The topical reef community is also very diverse, with a wide variety of habitats and ecological niches to support a rich assemblage of invertebrates and fish. The reef also serves as a nursery area for juvenile marine life which, in turn, support predator populations. In Fagatele Bay, there are at least 11 coral species, 86 species of fish, and a variety of benthic algae, including encrusting coralline forms.

3. *An area of exceptional recreation opportunity related to its distinctive marine characteristics:*

The relatively pristine conditions and calm, protected waters of Fagatele Bay make it an excellent area for several types of recreational activities that

would be compatible with the goals of a marine sanctuary. These include, for example, activities such as snorkeling, SCUBA diving, underwater photography, swimming, and recreational and subsistence fishing and boating. The availability of the bay as a living marine laboratory access via boats operating out of a small boat harbor in Leone Bay will enhance many of these activities.

5. *Distinctive or fragile ecological or geological features of exceptional scientific research or educational value:*

While coral reefs appear to be massive, sturdy structures, they represent, in fact, a delicate balance between the productivity of their thin veneer of living organisms and the natural forces that act of erode the reef structure. Because of their functions, value, and inherent fragility, the use of coral reefs and their associated faunal and floral communities must be managed prudently to assure their continued maintenance and vitality. Fagatele Bay will give scientists and government resource managers a perfect opportunity to examine, in-situ, the interrelationships among the diverse components of tropical marine ecosystems. Research conducted in the bay on the crown-of-thorns starfish would contribute to our understanding of the processes related to the phenomenon, possible points of management intervention, and post-infestation dynamics including recolonization and recruitment.

Establishing Fagatele Bay as a National Marine Sanctuary also will enhance the Territory's ability to educate and inform its citizens concerning the biological and cultural significance of island marine resources, their vulnerability to man-induced alterations and imprudent exploitation, and their responsibility to future generations for protecting the islands' natural endowment.

Fagatele Bay will be considered for Active Candidate status and possible future designation as a National Marine Sanctuary on the basis of information received during NOAA's consultation with other Federal, State/Territorial, and local authorities and a further evaluation of the site in accordance with § 922.23(a) of the marine sanctuary program regulations. Placement of the site on the LRA or selection as an Active Candidate does not establish any regulatory controls, rather, it is a means by which NOAA acquires additional information on the site and encourages informal comments on the feasibility and desirability of sanctuary designation. Regulatory controls, in

accordance with § 922.26 of the marine sanctuary program regulations, can be established only when actual sanctuary designation occurs. LRA listing and Active Candidate status are prerequisites to designation as a marine sanctuary and do not imply that designation will occur.

All interested persons or groups may submit information on the site. Before this, or any, site currently listed on the LRA can be declared as an Active Candidate, NOAA must hold preliminary consultations with Federal, State/Territorial, and local authorities and other parties in accordance with § 922.23(b) of the marine sanctuary program regulations. NOAA, therefore, through the publication of this notice, also announces its solicitation of comments concerning the feasibility and desirability of Fagatele Bay as a possible marine sanctuary.

A copy of the recommendation is available for public review in Room 327 and the CZM Information Center, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Dated: April 2, 1982.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration).

Peter L. Tweed,

Deputy Assistant Administrator for Coastal Zone Management.

(FR Doc. 82-9641 Filed 4-8-82; 8:45 am)

BILLING CODE 3510-08-M

Foreign Observer Surcharge; Fee Calculation and Method of Payment

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of fee calculation and method of payment.

SUMMARY: The National Oceanic and Atmospheric Administration has developed an interim observer surcharge to the foreign fishing permit fee for the operators of foreign fishing vessels in the U.S. fishery conservation zone (FCZ). The observer surcharge was developed to comply with the requirements of the 1981 amendment to the Magnuson Fishery Conservation and Management Act (Magnuson Act) and the Atlantic Tunas Convention Act (ATCA). Comments are solicited on the

calculation and method of payment for the fees.

DATES: Comments must be received on or before May 10, 1982.

ADDRESS: Send comments to: Enforcement Division, F/CM5, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Gary A. Wood, (202) 634-7265.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce (the Secretary) is required by the Magnuson Act (16 U.S.C. 1801 *et seq.*) and the ATCA (16 U.S.C. 97 *et seq.*) to establish a program under which the United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the FCZ. The Secretary is required to impose a fee sufficient to cover all the costs of providing observers. The fee is to be collected in advance of fishing operations. The total cost of full observer coverage under the Magnuson Act and the ATCA in 1982 is estimated at \$13.9 million. However, since Congress has currently appropriated only \$4 million for the observer program in fiscal 1982, NOAA will bill foreign fishing nations only that amount at this time.

Total Cost of Full Observer Coverage

With some exceptions, the Magnuson Act and the ATCA require that a U.S. observer be placed aboard all foreign fishing vessels engaging in fishing in the FCZ. The Magnuson Act exempts foreign fishing vessels from full observer coverage under the following conditions:

1. If a fleet of harvesting vessels transfers its catch to a mothership aboard which a U.S. observer is stationed, then observers will be stationed aboard the harvesting vessel only to the extent necessary to determine whether the vessels are complying with requirements of applicable management plans for the bycatch species;

2. If a vessel engages in fishing within the FCZ for such a short time that placing an observer aboard would be impractical;

3. If the facilities aboard a vessel for quartering an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of an observer would be jeopardized; or

4. If, for reasons beyond the control of

the Secretary, an observer is not available.

These exemptions do not apply to observer coverage required by the ATCA. In determining the total cost of placing an observer aboard a vessel during 1982, NOAA included the following cost elements:

1. Observer labor, including observer salaries and per diem during the training, deployment, and debriefing stages of their employment;

2. Observer benefits, which are calculated as a percentage of labor cost and vary accordingly to the type of appointment an observer holds. Benefits vary from approximately 3.5 percent to 8.5 percent of the labor cost;

3. Observer travel, including the cost of round-trip land, air, and sea transportation for observers from regional observer staging areas to the vessels scheduled for observer coverage;

4. Transportation, including the round-trip cost of shipping observer equipment, such as sampling gear and extra clothing, from regional observer staging areas to the vessels scheduled for observer coverage. For the Northwest Atlantic (NWA), this cost is included under travel;

5. Rents, communications and utilities, including the cost of office space to house observer training facilities, support staff, and equipment, and the cost of telephone and radio equipment;

6. Printing and reproduction, including the cost of printing and reproducing observer training manuals and data collection forms;

7. Contract services for goods and services associated with observer deployments, including certain types of transportation, repair of equipment, and other direct costs incurred by a contractor in support of the program;

8. Supplies and materials, including paper, pencils, hand-held calculators, and similar items used by observers and the support staff;

9. Equipment, including cameras, film, sampling gear, foul weather and safety clothing, and training aids;

10. Labor for support staff, including the program manager and his assistants who are directly involved in the recruitment, training, deployment, and/or supervision of observers;

11. Benefits for support staff; and

12. Overhead, or indirect cost,

calculated as a percentage of the direct costs, including NOAA overhead costs and contractors' overhead, if any. This cost varies depending on the regional office which administers the program.

To estimate the cost of the observer program, NOAA estimated the number of observer months that would be required to provide full observer

coverage in each foreign fishery. These estimates were based on past foreign fishing effort, participation in joint ventures, and, when available, effort plans provided by the operators of foreign fishing vessels. Costs were then estimated for the cost elements of each foreign fishery, assuming that all Governing International Fishery

Agreements (GIFAs) that expire in 1982 are renewed.

The estimates were that it would require 2,063 observer months at a total cost of \$13,941,364 to provide full observer coverage to the foreign fleet in 1982. Table 1 shows these estimated costs for each foreign fishery.

TABLE 1.—ESTIMATED COST OF FULL OBSERVER COVERAGE IN 1982

Country	Fishery	Estimated number of vessel months	Estimated number of observer months	Observer labor	Observer benefits	Travel	Transportation	Rents, communications, utilities
Bulgaria	WOC	16	18	\$32,200	\$2,800	\$11,800	0	\$1,000
Federal Republic of Germany	BSA/GOA	12	15	25,800	2,100	9,300	0	800
Italy	NWA	53	65	253,652	11,458	17,875	0	38,165
Japan	ABS	187	187	1,402,300	66,000	193,500	\$1,200	39,200
	BSA/GOA	1,119	1,120	2,233,200	187,800	807,700	700	69,200
	NWA	68	85	331,698	14,982	23,375	0	5,390
	PBS	100	100	303,940	10,420	37,000	5,000	7,500
	SAL	8	8	16,000	1,300	5,800	0	500
	SMT	2	3	4,742	165	1,110	150	135
Republic of Korea	BSA/GOA	205	207	409,900	34,400	148,300	100	12,700
	PBS	60	60	182,364	6,252	22,200	3,000	4,500
Spain	NWA	192	239	932,691	42,125	65,725	0	14,945
Taiwan	BSA/GOA	13	12	22,600	1,900	8,200	0	700
U.S.S.R.	BSA/GOA	30	35	61,300	5,200	22,200	0	1,900
	WOC	34	36	67,800	5,700	24,500	0	2,100
Total		2,099	2,190	6,280,187	392,602	1,398,385	10,150	198,735

TABLE 1.—ESTIMATED COST OF FULL OBSERVER COVERAGE IN 1982

Country	Printing and reproduction	Contract services	Supplies and materials	Equipment	Staff labor	Staff benefits	Overhead	Total
Bulgaria	400	\$12,400	\$40	\$760	\$2,400	\$200	\$15,016	\$78,816
Federal Republic of Germany	300	9,900	35	665	2,000	300	12,068	63,266
Italy	0	3,239	1,530	34,680	21,342	2,049	122,097	506,067
Japan	2,900	304,300	17,600	41,100	96,600	4,500	920,325	3,089,525
	24,900	857,400	3,000	56,500	168,400	16,300	1,042,295	5,467,395
	0	4,180	1,980	44,880	27,619	2,653	159,537	616,284
	2,500	0	2,000	4,000	13,080	220	209,233	594,893
	200	6,100	20	380	1,200	100	7,468	39,065
	75	0	60	120	3,924	66	5,720	16,267
Republic of Korea	4,600	157,400	550	10,450	30,900	3,000	191,307	1,003,607
	1,500	0	1,200	2,400	13,080	220	128,990	365,709
Spain	0	11,590	5,490	124,440	76,579	7,353	448,116	1,729,054
Taiwan	200	8,700	30	570	1,700	200	10,541	55,346
U.S.S.R.	700	23,500	80	1,520	4,600	400	28,601	150,001
	800	26,000	190	1,710	5,100	500	31,638	166,039
Total	39,075	1,424,709	33,805	324,175	468,524	38,061	3,332,956	13,941,364

The observer program is administered by NOAA through four regional field offices. The regional field offices are assigned full operational responsibility for their portion of the observer program. The costs of observer coverage per observer month may vary from region to region because of the availability of observers and consequent labor costs. Costs also may vary due to environmental conditions and the distances observers must travel to and from their duty station to the foreign fleet. Differences in regional accounting practices may affect the assignment of cost to a particular cost element. For example, the cost of hand-held

electronic calculators may be charged to Supplies and Materials in one region and to Equipment in another.

Actual Cost

The U.S. Congress limited expenditures by NOAA for the observer program in fiscal 1982 to \$4 million, or 28.69 percent of NOAA's estimate of full coverage.

To determine each foreign nation's current liability for the observer program in 1982, NOAA multiplied each nation's estimated cost for full observer coverage by 28.69 percent. The results of these calculations are contained in Table 2.

TABLE 2.—PRORATED COST OF OBSERVER COVERAGE FOR 1982

Nation	Fishery	Full coverage cost	X	28.69%	=	Prorated cost
1. Bulgaria	WOC	\$78,816				\$22,216
2. Federal Republic of Germany	BSA/GOA	63,266				18,151
3. Italy	NWA	506,067				145,196
4. Japan	ABS	3,089,525				886,365
	BSA/GOA	5,467,395				1,568,596
	NWA	616,294				176,815
	PBS	594,893				170,675
	SAL	39,065				11,208
	SMT	16,267				4,667
5. Korea	BSA/GOA	1,003,607				287,935
	PBS	365,709				104,922
6. Spain	NWA	1,729,054				496,066
7. Taiwan	BSA/GOA	55,346				15,879
8. USSR	BSA/GOA	150,001				43,035
	WOC	166,039				47,637
Total		13,941,384				3,999,779

Billing and Method of Payment

The Magnuson Act and the ATCA require that observer fees be paid in advance of fishing. Both Acts also require that any sum deposited into the Observer Fund but not used for the program be kept on deposit or invested in obligations of, or guaranteed by, the United States.

Section 611.8 of the foreign fishing regulations already requires payment of bills within 90 days after the billing date. In fiscal year 1982, Congressional authorization for the observer program was not passed until late December 1981. Upon passage of the authorization,

NOAA issued partial observer billings to foreign fishing nations and asked for immediate payment. NOAA indicated at the time of the billing that foreign fishing nations would be given an opportunity to comment on observer fees before final bills were determined, and that adjustment to observer bills for 1982 would be made, if appropriate, as a result of such comments. This notice provides that opportunity to comment. NOAA will reply to all comments received with respect to this Notice.

In 1982, payment may be made by check drawn against a U.S. bank, made payable to NOAA, Department of

Commerce and delivered to the National Marine Fisheries Service, Observer Program, F/CM5, Washington, D.C. 20235. Payment may also be made through a letter of credit. Foreign nations wishing to establish a letter of credit should contact the Division Chief, Permits and Regulations, National Marine Fisheries Service, F/CM7, Washington, D.C. 20235.

Dated: April 2, 1982.
(16 U.S.C. 1801 et seq., 16 U.S.C. 971-971h.)

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-9549 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council and its Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee. The Council and its Scientific and Statistical Committee will hold separate public meetings as follows:

Council—will meet to discuss the Bluefish, Summer Flounder, and Tilefish Fishery Management Plans (FMPs); discuss the status of other FMPs; discuss foreign fishing applications and other fishery management and administrative matters.

Scientific and Statistical Committee—will meet to discuss statistics and stock assessment of the Tilefish FMP.

DATES: The Council meeting will convene on Wednesday, May 12, 1982, at approximately noon and will adjourn on Friday, May 14, 1982, at approximately noon at the Golden Eagle, Philadelphia Avenue on the Beach, Cape May, New Jersey. The

Scientific and Statistical Committee meeting will convene on Wednesday, May 5, 1982, at approximately 10 a.m., and will adjourn at approximately 3:30 p.m., at the Best Western Airport Motel, Philadelphia International Airport, Philadelphia, Pennsylvania. The meetings may be lengthened or shortened depending upon progress on the agendas.

FOR FURTHER INFORMATION:

Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: April 5, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-9675 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council's Fluke Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Fluke Subpanel, which will meet to discuss the draft Summer Flounder Fishery Management Plan.

DATES: The public meeting will convene on Friday, May 21, 1982, at approximately 10 p.m., and will adjourn at approximately 4 p.m., and may be lengthened or shortened, or agenda items rearranged depending upon progress of same.

ADDRESS: The public meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: April 6, 1982.

Jack L. Falls,

Chief, Administrative Support Staff National Marine Fisheries Service.

[FR Doc. 82-9675 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Advisory Panel; Public Meeting

AGENCY: The South Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery

Conservation and Management Act (Pub. L. 94-265), has established an Advisory Panel which will meet to address problems and issues in the shrimp fishery for planning purposes for fishery management plan activities; review the Council's revised information and education manual; discuss upcoming information and education activities, as well as other appropriate Council business.

DATES: The public meeting will convene on Monday, May 10, 1982, at approximately 9 a.m., and will adjourn at approximately 4 p.m. and will take place at the Ponce de Leon Lodge, Highway One, St. Augustine, Florida.

FOR FURTHER INFORMATION:

South Atlantic Fishery Management Council, One Southpark Circle—Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: April 6, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-9677 Filed 4-8-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1982 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: April 9, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 9, 1981, January 29, 1982, and January 8, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 50094, 47 FR 4327, 47 FR 999, and 47 FR 4328) of proposed additions to and deletions from Procurement List 1982, November 12, 1981 (46 FR 55740).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1982:

SIC 7331

Mailing Service for the following locations in Washington, D.C.:

U.S. Department of Agriculture
Foreign Agriculture Services
14th & Constitution Avenue
U.S. Department of Transportation
Office of the Secretary
Distribution Unit
400 7th Street, S.W.

SIC 7332

Photocopying Service
National Agricultural Library Building
Beltsville, Maryland

SIC 7349

Janitorial/Custodial Service for the following locations:

Federal Building
U.S. Post Office
U.S. Courthouse
Main and Poplar Streets
Greenville, Mississippi
U.S. Army Reserve Center
Burrstone Road
Utica, New York
GSA Center
Buildings 611 and 812
Auburn, Washington

Deletions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services are hereby deleted from Procurement List 1982:

SIC 0782

Grounds Maintenance
RFK Stadium
Washington, D.C.

SIC 7369

Commissary Shelf Stocking and Custodial Service
Edwards Air Force Base, California

SIC 7641

Furniture Rehabilitation for the following locations:
Monterey, California, plus 10-mile radius, including Fort Ord
San Francisco, California, and the counties of Alameda, Contra Costa, San Mateo, and Santa Clara.

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters for the following locations:

U.S. Customs, Milwaukee, Wisconsin
U.S. Federal Office Building, Milwaukee, Wisconsin

Veterans Administration Regional Office, Milwaukee, Wisconsin
Veterans Administration Center and Hospital, Wood, Wisconsin.

C. W. Fletcher,

Executive Director.

[FR Doc. 82-9695 Filed 4-8-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982 Proposed Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletion from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 12, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1982, November 12, 1981 (46 FR 55740):

CLASS 7210

Towel, Bath, Disposable
7210-01-029-0370

CLASS 7520

Pencil, Mechanical
7520-00-NIB-0005 (.3mm lead)
7520-00-NIB-0006 (.7mm lead)
Trimmer, Paper, Drop Knife
7520-00-634-4675
7520-00-163-2568

CLASS 7530

Paper, Teletypewriter Roll
7530-00-943-7076
7530-00-019-7463
7530-00-019-6674
7530-00-935-4183
7530-01-055-6138

SIC 7349

Janitorial Services
Hiram M. Chittenden Locks
Seattle, Washington

Deletion

It is proposed to delete the following commodities from Procurement List 1982, November 12, 1981 (46 FR 55740):

CLASS 7220

Floor Mats
7220-00-224-6489
7220-00-205-2807
7220-00-205-2808
7220-00-224-6490
7220-00-205-2805
7220-00-205-2806

C. W. Fletcher,

Executive Director.

[FR Doc. 82-9694 Filed 4-8-82; 8:45 am]

BILLING CODE 6820-33-M

Privacy Act of 1974; Systems of Records; Annual Publication

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Annual publication of systems of records.

SUMMARY: Annual Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires agencies to publish annually in the Federal Register a notice of the existence and character of their systems of records. The Committee for Purchase from the Blind and Other Severely Handicapped last published the full text of its systems of records at 42 FR 48075, August 15, 1977. No further changes have occurred, therefore, the systems of records remain in effect as published.

The full text of the Committee for Purchase from the Blind and Other Severely Handicapped's systems of records also appears in the Privacy Act Issuances, 1980 Compilation, Volume IV, pages 132-138. This volume may be viewed at Federal Depository Libraries and Federal Information Centers.

FOR FURTHER INFORMATION CONTACT: Mr. C. W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009

14th Street, North, Suite 610, Arlington, Virginia 22201; telephone: 703/557-1145.

C. W. Fletcher,
Executive Director.

[FR Doc. 82-9810 Filed 4-8-82; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Revision of Joint Audit Plan

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comment.

SUMMARY: On April 23, 1980, the Commission approved, pursuant to § 1.52(g) of its regulations (17 CFR 1.52(g) (1981)), the "Joint Audit Plan" submitted by seven commodity exchanges, the Amex Commodities Exchange, Inc., Chicago Mercantile Exchange, Inc., MidAmerica Commodity Exchange, Inc., Coffee, Sugar & Cocoa Exchange, Inc., New York Cotton Exchange and New York Mercantile Exchange. Revisions to that plan have been submitted which would: (1) Change the requirements for conducting audits to conform with Interpretation No. 4 of the Commission's Division of Trading and Markets or with guidelines to be developed by the plan's Joint Audit Committee, and (2) change the membership of the Committee to include the New York Futures Exchange, Inc. and to delete the Amex Commodities Exchange, Inc. The Commission is publishing this notice to request comment on those revisions, in accordance with § 1.52(g).

DATES: Comments must be submitted on or before May 10, 1982.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Deputy Director, Division of Trading and Markets, at the above address. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On August 29, 1978, the Commodity Futures Trading Commission ("Commission") adopted § 1.52 as part of its minimum financial regulations (43 FR 39956, September 8, 1978). Section 1.52(a) requires each self-regulatory organization ("SRO") to adopt and submit for Commission approval rules prescribing minimum financial and related reporting requirements for all its

member firms which are registered futures commission merchants ("FCM"). Section 1.52(b) require each SRO to have in effect and enforce such minimum financial and related reporting requirements which have been approved by the Commission. Section 1.52(c) provides that any two or more SROs may file with the Commission a plan for delegating to a designated self-regulatory organization ("DSRO"), for any FCM which is a member of more than one such SRO, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial and related reporting requirements adopted by such SROs pursuant to section 1.52(a); and

(2) Receiving the financial reports necessitated by such minimum financial and related reporting requirements.

Section 1.52(c) further provides that such a plan may also delegate the responsibility of examining the books and records kept by such FCM relating to its business of dealing in commodity futures and cash commodities, insofar as such business relates to its dealing on contract markets, as required by § 1.51(a)(3) of the Commission's regulations.

On April 23, 1980, the Commission approved, pursuant to § 1.52(g) of the regulations, the "Joint Audit Plan" submitted by seven commodity exchanges, the Amex Commodity Exchange, Inc., Chicago Mercantile Exchange, Inc., MidAmerica Commodity Exchange, Inc., Coffee, Sugar & Cocoa Exchange, Inc., New York Cotton Exchange and New York Mercantile Exchange. By letters dated February 5 and 10, 1982 from Mr. Mark J. Gallagher, Chairman of the Joint Audit Committee for that plan, revisions to that plan have been submitted which would: (1) Change the requirements for conducting audits to conform with Interpretation No. 4 of the Commission's Division of Trading and Markets or with guidelines to be developed by the Joint Audit Committee, and (2) change the membership of the Committee to include the New York Futures Exchange, Inc. and to delete the Amex Commodities Exchange, Inc. The Commission is requesting public comment on the revisions to the plan in accordance with § 1.52(g).

Set forth below are the notice of amendment of the contract among the seven commodity exchanges and the New York Stock Exchange, under which the New York Stock Exchange performs auditing services for the commodity exchanges, and a revised list containing the FCMs for which each exchange will be responsible:

Notice of Amendment of Contract between the New York Stock Exchange, Amex Commodities Exchange, Inc., Chicago Mercantile Exchange, Commodity Exchange, Inc., MidAmerica Commodity Exchange, New York Coffee & Sugar Exchange, Inc., New York Cotton Exchange, New York Mercantile Exchange.

Pursuant to the Agreement Between the New York Stock Exchange, Amex Commodities Exchange, Inc., Chicago Mercantile Exchange, Commodity Exchange, Inc., MidAmerica Commodity Exchange, New York Coffee & Sugar Exchange, Inc., New York Cotton Exchange and New York Mercantile Exchange dated the 1st day of July, 1979 (the "Agreement"), this serves as written notice of amendments thereto. Said amendments are the following:

The New York Futures Exchange, Inc. is added as a party to the Agreement and the Amex Commodities Exchange, Inc. is deleted as a party.

The New York Futures Exchange, Inc., 20 Broad Street, New York, N.Y. 10005 is added to the list of parties to receive "any notice, report or request required or permitted to be given" pursuant to the Agreement.

The designated employees of the New York Futures Exchange, Inc., Agnes Gautier and Jeffrey Zinn, are added to the list of designated employees in Attachment VI of the Agreement.

All references to the New York Coffee & Sugar Exchange, Inc. are amended to refer to the Coffee, Sugar & Cocoa Exchange, Inc.

Effective as of the date that this notice is signed by the parties participating in the Agreement, the New York Futures Exchange, Inc. is subject to all the terms and conditions set forth in the Agreement and the Agreement shall be amended as set forth above.

The DSROs under the revised plan and the FCMs for which each is responsible would be as follows (asterisk denotes New York Stock Exchange members):

New York Mercantile Exchange

Ace American, Inc.
ALCO Commodities, Inc.
Drexel, Burnham Lambert, Inc.*
Freehling & Co.*
Johnson Matthey Commodities Corporation
Marc Commodities Corporation
Paris Securities Corporation
Piper, Jaffray & Hopwood, Inc.*
Securities Trading Group
John Thallon & Co.

New York Cotton Exchange

Klein & Company
Interstate Securities Corp.*

Commodity Exchange, Inc.

ACLI International Commodity Services, Inc.

J. Aron Commodities Corporation
Bache Halsey Stuart Shields, Inc.*
Balfour MacLaine, Inc.
Brandeis, Goldschmidt & Co. (Commodities), Inc.

Brody, White & Co., Inc.
Commodity International Co.
Cowen & Company*
Fahnestock & Co.*
Easton & Company
Walter N. Frank & Company
Gerald Commodities Services, Inc.
Gill & Duffus Services, Inc.
Goldman Sachs & Co.*
Granger & Company*
D. E. Jones Commodities, Inc.
Lehman Brothers Kuhn Leob, Inc.
Lincolnwood, Inc.
McCormick Commodities, Inc.
NCZ Commodities
Oppenheimer & Co., Inc.
Primary Metal & Mineral Corporation
Redel Trading Company, Inc.
Republic Clearing Corp.
R.T.B., Inc.
Servonet Corp.
Sinclair Global Brokerage Corp.
T&S Commodities
Thomson McKinnon Securities, Inc.*
United Equities (Commodities) Co.
Rudolf Wolff Commodity Brokers, Inc.

Coffee, Sugar & Cocoa Exchange, Inc.

Berisford Commodities, Inc. (formerly Lonray Sugar, Inc.)
B. W. Dyer & Co.
Espo Commodities, Inc.
Lewis & Peat Futures Inc.
Macro International Group, Inc.
Marshall, French & Lucas, Inc.
Smith Barney, Harris, Upham & Co., Inc.*
Volkart Brokerage, Inc.
W.C.L. Commodities
Woodhouse, Drake & Carey

MidAmerica Commodity Exchange

Goodman Manaster & Company

Chicago Mercantile Exchange

Bear Stearns & Co.*
A. G. Becker-Kipnis & Co.*
Cargill Investor Services, Inc.
Clayton Brokerage Co. of St. Louis, Inc.
Collins Commodities, Inc.
ContiCommodity Services, Inc.
CRT Services, Inc.
Dean Witter Reynolds, Inc.*
Donaldson, Lufkin & Jenrette Securities Corp.*
First Mid-America, Inc.*
Gelderman & Co., Inc.
Heinold Commodities, Inc.
E. F. Hutton & Co., Inc.*
Kohn & Co.
Levy Commodities, Inc.
Lind-Wallock & Company
Maduff & Sons, Inc.
Merrill Lynch Commodities, Inc.*
Miller-Jesser, Inc.
O'Connor Grain Co.
Paine, Webber, Jackson & Curtis, Inc.*
Peavey Company
Peters & Co.
Plaza Clearing Corp.
REFCO, Inc. (formerly Ray E. Friedman & Co.)

Richardson Securities, Inc.*
 Rosenthal & Co.
 Rouse Woodstock & Co.
 Saul Stone & Co.
 Shearson/American Express
 Siegal Trading Co., Inc.
 Staley Commodities International, Inc.
 Stotler & Company.

New York Futures Exchange, Inc.

None

Requests for a copy of all documents submitted in connection with the revisions to the Joint Audit Plan may be made to the Executive Secretariat.

Issued in Washington, D.C. on April 6, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-9682 Filed 4-8-82; 8:45 am]

BILLING CODE 6351-01-M

Room 2D 444, Washington, DC 20310,
 Telephone No. 695-9356.

John O. Roach, II,

Army Liaison Officer, with the Federal Register.

[FR Doc. 82-9687 Filed 4-8-82; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Denver Board of Water Commissioners, Denver, Colo.; Intent To Prepare Systemwide Draft Environmental Impact Statement To Address Cumulative Effects of Future Water Development Proposals

AGENCY: U.S. Army Corps of Engineers, Omaha District.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: Intent to prepare a systemwide Draft Environmental Impact Statement (DEIS) to address the cumulative effects of future water development proposals of the Denver Board of Water Commissioners (DWB), Denver, Colorado. The DEIS may also include detailed evaluation of site-specific plans which may be identified during the EIS process.

1. Because of Section 404 of the Clean Water Act, the Corps would have a major action in all future development proposals of the DWB.

2. The determination of future water needs of the Denver metropolitan area will be an important part of the analyses. The DEIS will include a wide range of alternatives designed to satisfy or alter those needs as may be available to the DWB. The alternatives are expected to include additional water conservation; water reuse; ground water development; and collection systems and storage reservoirs involving transmountain diversions from the headwaters of the Eagle, Piney, Blue, Williams Fork, and Fraser Rivers of the upper Colorado River basin. Additional alternatives may be identified as the study progresses and public input is incorporated.

3. Public involvement to date consists primarily of coordination with the Governor's Roundtable and the DWB's Citizens Advisory Committee (CAC). The Roundtable is a group established by Governor Lamm to develop consensus on the next DWB development proposal(s). The CAC, which is composed of nine representatives from the potential areas of impact, has elected to sponsor the public scoping meetings. Water need, including the potential for additional conservation, and numerous site-specific

and programmatic effects of the DWB's future development are expected to be significant issues. Any future development will comply with the requirements of the National Environmental Policy Act, the Historic Preservation Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, Section 404 of the Clean Water Act, Executive Order 11988 regarding flood plains, and Executive Order 11990 regarding wetlands.

4. The scoping meetings will be held throughout the potential area of impact in accordance with the following schedule:

Monday, 26 April—3:00 p.m. (MDT), Auditorium of the Colorado Mountain College, 103 Harris St., Breckenridge, CO;

Tuesday, 27 April—1:30 p.m. (MDT), County Commissioners Meeting Room, McDonald Building, 550 Broadway, Eagle, CO;

Wednesday, 28 April—1:30 p.m. (MDT), Community Room, 3rd Floor West, Grand County Courthouse, Hot Sulphur Springs, CO;

Monday, 3 May—7:30 p.m. (MDT), Bear Creek High School, 3490 South Kipling, Lakewood, CO;

Tuesday, 4 May—7:30 p.m. (MDT), Cherry Creek High School, 9300 East Union Avenue, Englewood, CO;

Wednesday, 5 May—7:30 p.m. (MDT), South High School, 1700 East Louisiana Avenue, Denver, CO;

Thursday, 6 May—7:30 p.m. (MDT), Thornton High School, 9351 North Washington, Thornton, CO.

5. The Omaha District estimates that the DEIS will be available for public review by January 1984.

ADDRESS: Questions about the proposed action, DEIS, or scoping meetings should be addressed to either Robert Rounph, Study Manager, Phone (402) 221-3135, or Richard Gorton, Chief, Environmental Analysis Branch, Phone (402) 221-4605, Omaha District Corps of Engineers, 6014 U.S. Post Office and Courthouse, Omaha, NE 68102.

Dated: April 6, 1982.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-9688 Filed 4-8-82; 8:45 am]

BILLING CODE 3710-62-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant a Limited Exclusive License To the University of Michigan

Pursuant to the provisions of the General Services Administration's temporary licensing regulations, the Department of the Army announces its intention to grant to the University of Michigan, a constitutional corporation of the State of Michigan, a limited exclusive license under U.S. Patent No. 4,317,776, issued on March 2, 1982, entitled "2-Acetyl- and 2-Propionylpyridine Thiosemicarbazones," invented by Daniel L. Klayman, John P. Scovill, Joseph F. Bartosevich, Carl J. Mason and T. Scott Griffin, U.S. Patent Application Serial Number 311,371 filed October 14, 1981 (division of above patent) entitled "Medicinal 2-Acetyl and 2-Propionylpyridine Thiosemicarbazones and Preparation Thereof," and U.S. Patent Application filed on March 30, 1982 entitled "2-Acetyl-pyridine Thiosemicarbazones as Antiviral Agents" invented by Charles Shipman, Jr., Daniel L. Klayman, Sandra H. Smith and John C. Drach.

This license will be granted unless compelling reasons for not granting such a license are received by the Chief, Intellectual Property Division, Office of The Judge Advocate General, Department of the Army, Washington, DC 20310 within 60 days of this notice.

For further information concerning this notice, contact: LTC Neil K. Nydegger, HQDA (DAJA-IP) Pentagon—

L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been rescheduled from 3 May 1982 as follows:

Thursday, 27 May 1982, Plaza West, Rosslyn, Virginia. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the Department of Defense Intelligence Information System.

M. S. Healy,

*OSD Federal Register Liaison Officer,
Department of Defense.*

April 5, 1982.

[FR Doc. 82-9686 Filed 4-8-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Thursday, 13 May 1982, Plaza West, Rosslyn, Virginia. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on bomber prelaunch survivability.

M. S. Healy,

*OSD Federal Register Liaison Officer,
Department of Defense.*

April 5, 1982.

[FR Doc. 82-9687 Filed 4-8-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Office of Postsecondary Education, Ed.

ACTION: Notice of extension of deadline for submitting appeals for funds.

SUMMARY: The Secretary extends the deadline date of April 16, 1982 to April 20, 1982, for institutions of higher education to file an appeal for additional funds under the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental

Educational Opportunity Grant (SEOG) programs. The notice of deadline for submitting appeals for funds and notice of average program expenditure by type of institution published in the Federal Register on March 15, 1982 (47 FR 11057) provided detailed information concerning these programs.

FOR FURTHER INFORMATION CONTACT:

Inquiries concerning this extension date and the program should be addressed to the Campus and State Grant Branch, Division of Policy and Program Development, office of Student Financial Assistance, 400 Maryland Avenue, SW, (Regional Office Building 3, Room 4018), Washington, D.C. 20202-3454; Telephone: (202) 245-9720.

SUPPLEMENTARY INFORMATION: There is no change in the procedures for submitting an appeal delivered by mail or by hand, the average 1980-81 expenditure of funds per enrolled student for NDSL, CWS, and SEOG programs by type of institution, or any other information previously published.

(Catalog of Federal Domestic Assistance Nos. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: March 31, 1982.

Edward Elmendorf,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 82-9640 Filed 4-8-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2097-3]

Availability of Environmental Impact Statements Filed March 29 Through April 2, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson, (202) 245-3006.

Corps of Engineers:

EIS No. 820176, Draft, COE, MI, Cass River Flood Control Project, Vassar, Tuscola County, Due: May 24, 1982

Department of Interior:

EIS No. 820180, Draft, BLM, CO, Gunnison Basin/American Flats/Silverton Units Wilderness Study Areas, Due: July 8, 1982

EIS No. 820179, Final, MMS, ID, Smoky Canyon Phosphate Mine, Caribou NF, Permit, Caribou County, Due: May 10, 1982

EIS No. 820182, Final, MMS, WY, Cache Creek-Bear Trust Oil and Gas Drilling, Teton County, Due: May 10, 1982

Department of Transportation:

EIS No. 820170, Draft, FHWA, AL, Elton B. Stephens Expressway Extension,

Jefferson County, Due: May 24, 1982

EIS No. 820173, Draft, FHWA, IN, Raymond Street Improvement, Indianapolis, Marion County, Due: May 24, 1982

EIS No. 820183, Draft, FHWA, SC, I-95/US 278 Interchange Construction, Jasper County, Due: May 24, 1982

EIS No. 820168, Draft, FHWA, SEV, WY, OH Appalachian Corridor D Construction, I-77 to Ohio River, Due: May 24, 1982

EIS No. 820185, Final, FHWA, WA, Seattle Ferry Terminal Expansion/Traffic Revision, King County, Due: May 10, 1982

EIS No. 820177, Draft, UMT, OR, Westside Corridor Mass Transit and Highway Improvements, Due: May 24, 1982

Environmental Protection Agency:

EIS No. 820172, Final, EPA, NM, Crownpoint Wastewater Treatment Facilities, Grant, McKinley County, Due: May 10, 1982

Department of Housing and Urban Development:

EIS No. 820167, Final, HUD, CA, Solano County Residential Development 1980/1985, Mortgage Insurance, Due: May 10, 1982

EIS No. 820181, Draft, CDB, NY, Rochester Convention Center Construction, CDBG, Monroe County, Due: May 24, 1982

Nuclear Regulatory Commission:

EIS No. 820184, Draft, NRC, WY, Sand Rock Mill Project, Source and Byproduct License, Campbell County, Due: May 24, 1982

Department of Agriculture:

EIS No. 820169, Draft, AFS, AR, Dry Creek Wilderness Study Area, Ouachita National Forest, Due: May 24, 1982

EIS No. 820171, Draft, AFS, AR, Belle Starr Cave Wilderness Area, Ouachita National Forest, Due: May 24, 1982

EIS No. 820174, Final, AFS, ID, Blackbird Cobalt-Copper Mine, Salmon NF, Operating Plan Approval, Due: May 10, 1982

EIS No. 820178, Final, AFS, ID, Smoky Canyon Phosphate Mine, Caribou NF, Permit, Caribou County, Due: May 10, 1982

Dated: April 6, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-9825 Filed 4-8-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51408; TSH-FRL-2097-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before

manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the *Federal Register* of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of eleven PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82-232—June 24, 1982.

PMN 82-233 and 82-234—June 27, 1982.

PMN 82-235, 82-236, 82-237, 82-238, 82-239 and 82-240—June 28, 1982.

PMN 82-241—June 29, 1982.

PMN 82-243—June 30, 1982.

Written comments by: PMN 82-232—May 25, 1982.

PMN 82-233 and 82-234—May 28, 1982.

PMN 82-235, 82-236, 82-237, 82-238, 82-239 and 82-240—May 29, 1982.

PMN 82-241—May 30, 1982.

PMN 82-243—May 31, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51408]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-232

Manufacturer: Confidential.

Chemical: (G) Thiophosphate.

Use/Production: (G) Open use. Prod. range: Confidential.

Toxicity Data: Confidential.

Exposure: Confidential.

Environmental Release/Disposal: No release.

PMN 82-233

Manufacturer: Confidential.

Chemical: (G) Organic salt of phosphorus.

Use/Production: (S) Industrial accelerator for thermosetting compositions. Prod. range: 500-25,000 kg/yr.

Toxicity Data: No data submitted.

Exposure: Manufacturer and processing: dermal and inhalation, a total of 514 workers, up to 8 hrs/da, up to 50 da/yr.

Environmental Release/Disposal: Less than 10 kg/yr release to air and water 1-4 hrs/da, 10-30 da/yr with 10-100 kg/yr to land. Disposal by approved landfill.

PMN 82-234

Manufacturer: Confidential.

Chemical: (G) Modified aromatic diisocyanate with aliphatic triol.

Use/Production: Confidential. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Potential: 30 min. per batch (8 hrs).

Environmental Release/Disposal: No release.

PMN 82-235

Manufacturer: Monsanto Company.

Chemical: (G) Allylglycidyl ether alcohol resin.

Use/Production: (S) Cross-linking. Prod. range: Confidential.

Toxicity Data: Acute oral: 2,400 mg/kg.

Acute dermal: >5,000 mg/kg. Skin: Non-irritant, Eye: Non-irritant.

Exposure: Manufacturer: minor inhalation, a total of 5 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal: Release to land. Disposal by incineration.

PMN 82-236

Importer: Mobay Chemical Corporation.

Chemical: (G) Polymer of an alkoxyated alkyl heteromonocycle and polymethylenepolyphenylene isocyanate.

Use/Import: (S) Industrial crosslinking agent for latex dispersion adhesives. Import range: Confidential.

Toxicity Data: No data submitted.

Exposure: Use: Dermal, inhalation and eye.

Environmental Release/Disposal: Less than 10 kg/yr released to air.

PMN 82-237

Importer: Mobay Chemical Corporation.

Chemical: (G) Bis-substituted urea.

Use/Import: (S) Industrial activator for a blowing agent used in expanded rubber goods. Import range: Confidential.

Toxicity Data: No data submitted.

Exposure: Use: dermal and inhalation.

Environmental Release/Disposal: Less than 10 kg/yr released to air.

PMN 82-238

Importer: Confidential.

Chemical: (G) N-substitutedphenyl-N,N'-dialkylurea.

Use/Import: (G) Contained use. Import range: Confidential.

Toxicity Data: No data submitted.

Exposure: Dermal, a total of 18 workers, up to 2 hrs/da, up to 50 da/yr.

Environmental Release/Disposal: No release. Disposal by incineration and approved landfill.

PMN 82-239

Manufacturer: Confidential.

Chemical: (G) Substituted unsaturated alcohol.

Use/Production: (G) Destructive use. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Manufacturer, processing, use and disposal: minimal dermal and inhalation.

Environmental Release/Disposal: Release is minimal. Disposal by publicly owned treatment works (POTW).

PMN 82-240

Manufacturer: Confidential.

Chemical: (G) Substituted unsaturated alcohol.

Use/Production: (G) Highly dispersive use. Prod. range: Confidential.

Toxicity Data: Acute oral: 5,000 mg/k. Skin:

Moderate to strong irritant, Eye: Mild

conjunctival irritant, Ames Test: Negative.

Skin sensitization: Not sensitive, Repeated

insult patch test: No reaction,

Photosensitizing potential: None,

Phototoxicity: None.

Exposure: Manufacturer, processing, use and disposal: dermal and inhalation.

Environmental Release/Disposal: Release is minimal. Disposal by POTW and incineration.

PMN 82-241

Manufacturer: Sandoz Colors and Chemicals Company.

Chemical: (S) Penta(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-hydroxy-, C₁₂ linear primary-alkyl ethers.

Use/Production: (S) Wetting agents in detergent formulations. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Manufacturer: dermal, 1 worker, 1 hr/da, 16 da/yr.

Environmental Release/Disposal: 10-100 kg/yr released to water .25 hr/da, 16 da/yr. Disposal by POTW.

PMN 82-243

Manufacturer: Harshaw Chemical Company.

Chemical: (S) Manganic acetylacetonate.

Use/Production: (S) Curing agent for polymeric resins. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Manufacturer: dermal and inhalation, a total of 2 workers.

Environmental Release/Disposal: 10-100 kg/yr released to land. Disposal by approved landfill.

Dated: April 5, 1982.

Woodson W. Bercaw,
Acting Director, Management Support Division.

[FR Doc. 82-9638 Filed 4-9-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59081A; TSH-FRL-2081-7]

Disubstituted Heteromonocycle; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-4) under section 5 of the Toxic Substances Control Act (TSCA) on February 17, 1982. Notice of receipt of the application was published in the *Federal Register* of March 1, 1982 (47 FR 8677). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective March 31, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division

(TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, DC 20460, [202-382-3733].

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the *Federal Register*. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On February 17, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-4. The manufacturer claimed its identity, the specific chemical identity, and the specific use of the new substance as confidential business information. The generic name of the new substance is disubstituted heteromonocycle and it will be incorporated into a consumer article. A maximum of 1 kilogram (kg) will be manufactured for test market purposes, during a test marketing period not to exceed 1 year. During manufacturing, a maximum of 10 workers in all shifts may be exposed for 8 hours/day for 250 days. At two processing sites, a total of 40 workers in all shifts may be exposed for

8 hours/day for 250 days. At an additional processing site, 150 workers may be exposed for 355 days. A maximum of four workers may have exposure for 24 hours/day for 355 days during disposal. A notice published in the *Federal Register* of March 1, 1982 (47 FR 8677) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-4 under the conditions set out in the application will not present any unreasonable risk of injury to health or the environment. At the levels of expected exposure there are no high-level health concerns. The production volume is very low. Worker exposure should be low if proper protective equipment specified in the test market exemption application is worn, the area of exposure is ventilated, and the specified safety procedures are followed. The final use of the substance will involve minimal exposure to consumers as part of a consumer article. Environmental release is expected to be low and environmental effects are not expected at these levels.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The production volume of the new substance may not exceed the quantity of 1 kg described in the test marketing exemption application.

The test marketing activity approved in this notice is limited to a 1-year period commencing on the date of signature of this notice by the Administrator.

4. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified. Exposed workers must wear proper protective equipment specified in the application.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: March 31, 1982.

Anne M. Gorsuch,
Administrator.

[FR Doc. 82-9639 Filed 4-8-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 16911; Gen. Docket No. 82-165]

Inquiry Issued on Preparations for 1984/1986 WARC for Planning of HF Bands Allocated to Broadcasting Service

March 29, 1982.

The Commission has issued a notice of inquiry seeking comment on preparations for the 1984/1986 World Administrative Radio Conference (WARC) of the International Telecommunication Union (ITU) for planning of the high frequency (HF) bands allocated to the broadcasting service (WARC-HFBC).

Although the conference is not scheduled to convene until January 1984, the Commission said it was important to begin this inquiry now since the issues are so complex and controversial.

WARC-HFBC is intended to plan the use of the HF bands allocated to the broadcasting service.

The United States is a major user of these bands, operating about 10 percent of all HF broadcasting transmitters worldwide. Although most of this use is by the Voice of America (VOA) and Radio Free Europe/Radio Liberty (RFE/RL), the role of FCC licensees is significant. The five present FCC licensees (or permittees) are now operating or constructing 19 transmitters at five sites. VOA operates 30 transmitters in the United States and 67 overseas. RFE/RL operates 46 transmitters in Western Europe.

The Commission said the purpose of this inquiry was fourfold:

- To acquaint the public with the issues involved in WARC-HFBC;
- To get comments on the various issues;
- To develop draft proposals to be coordinated with the National Telecommunications and Information Administration for submission to the Department of State; and
- To compile non-government existing and future HF broadcasting requirements to be considered by WARC-HFBC.

The issues the Commission asked to be addressed in comments include:

- Should the second session of the conference, scheduled for 1986, be given competence to address expansion of the

HF broadcasting bands? It is the Commission's view that should allocation competency be conferred, it must be restricted by the agenda to the bands currently allocated to the fixed service below 10 MHz.

- What technical practices and standards might be adopted to increase spectrum efficiency and thereby reduce the need for additional spectrum?
- Upon what planning process should future use of the HF broadcast bands be based?

- Specific comments regarding public requirements for nongovernment HF broadcasting services, including future requirements not yet authorized by the Commission.

- Comment are due by June 1, 1982 and replies by June 30, 1982.

- Action by the Commission March 25, 1982, by Notice of Inquiry (FCC 82-140). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera

For more information contact Steven D. Selwyn at (202) 632-7073.

William J. Tricarico,
Secretary, Federal Communications
Commission.

Note.— Due to the ongoing effort to minimize publishing costs, the full text of the Notice will not be printed herein. However, copies may be obtained from distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. In addition, a copy is on file for review in the FCC Library, Room 639.

[FR Doc. 82-9622 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1343]

Petitions for Reconsideration of Actions in Rule Making Proceedings

April 5, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Any Inquiry Into the Use of the Bands 825-845 and 870-890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems. (CC Docket No. 79-318)

Filed by: Arthur Blooston & Chase Libbey, Attorneys for Autophone of San Antonio, Inc., on 3-29-82.

Subject: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board. (CC Docket No. 80-286)

Filed by: Edwin B. Spievack & Robert C. Burns, Attorneys for North American Telephone Association on 3-29-82.

William J. Tricarico,
Secretary, Federal Communications
Commission.

[FR Doc. 82-9624 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

Study Group A of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

April 2, 1982.

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 19, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Group III and I meetings.

Members of the general public may attend the meeting and join in the discussion subject to the instruction of the chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632-3414.

William J. Tricarico,
Secretary, Federal Communications
Commission.

[FR Doc. 82-9623 Filed 4-8-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-166]

Final Action Approval of Conversion Applications; El Paso Federal Savings & Loan Association, El Paso, Texas

Dated: April 6, 1982.

Notice is hereby given that on March 24, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance

Corporation ("Corporation"), by Resolution No. 82-202 approved the application of El Paso Federal Savings and Loan Association, El Paso, Texas ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.
James J. McCarthy,
Acting Secretary.

[FR Doc. 82-9690 Filed 4-8-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-165]

Final Action Approval of Conversion Applications; Mid-State Federal Savings & Loan Association, Ocala, Florida

Dated: April 6, 1982.

Notice is hereby given that on February 24, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 82-132 approved the application of Mid-State Federal Savings and Loan Association, Ocala, Florida ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, N.W., Atlanta, Georgia 30303.

By the Federal Home Loan Bank Board.
James J. McCarthy,
Acting Secretary.

[FR Doc. 82-9689 Filed 4-8-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-164]

Final Action Approval of Conversion Applications; Washington Federal Savings & Loan Association of Seattle, Seattle, Washington

Dated: April 6, 1982.

Notice is hereby given that on February 22, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance

Corporation ("Corporation"), by Resolution No. 82-124 approved the application of Washington Federal Savings and Loan Association of Seattle, Seattle, Washington ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.
James J. McCarthy,
Acting Secretary.

[FR Doc. 82-9691 Filed 4-8-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received

by the appropriate Federal Reserve Bank not later than May 2, 1982.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

The First National Bancorporation, Inc., Denver, Colorado, (data processing confirmation services; Colorado): To engage directly and *de novo* in providing data processing confirmation services and reports, including technical assistance on interpreting and using the confirmation reports, to correspondent banks and savings and loan associations affiliated with The First National Bank of Denver. The services and reports will be furnished on a one-time contract basis with no provision for individual or customized services or reports. The precise nature of the services and reports provided will be determined by the individual contract between the correspondent bank or savings and loan association and The First National Bancorporation, Inc. No audit or audit-like services will be provided and the service and reports are intended solely as a means for correspondent banks to verify and confirm the accuracy of electronic data processing services provided by The First National Bank of Denver. Such activities will be conducted from an existing office in Denver, Colorado, and will serve the State of Colorado and the county of Albany, Wyoming. Comments on this application must be received not later than April 27, 1982.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

Wharton Capital Corporation, Wharton, Texas (personal and real property leasing activities; Texas): To engage, through its subsidiary, Security Capital Leasing Corporation, in the leasing of personal and real property for terms of one to 40 years. These activities would be conducted from an office in Conroe, Texas, serving the State of Texas.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

BankAmerica Corporation San Francisco, California (industrial loan company, financing, servicing, and insurance activities; *de novo* office; Tennessee and Mississippi): To engage, through its indirect subsidiary, FinanceAmerica Corporation, a Tennessee corporation (whose name will be changed to FinanceAmerica Thrift Corporation), in the activities of acting as an industrial loan company under the Tennessee Industrial Loan

and Thrift Companies Act; making or acquiring for its own account loans and other extensions of credit; servicing loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance in the State of Tennessee. Such activities will include, but not be limited to, issuing investment certificates (intrastate only), making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by both FinanceAmerica Corporation and FinanceAmerica Credit Corporation. It is further proposed that another indirect subsidiary, FinanceAmerica Credit Corporation, a Delaware corporation, will engage in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered in either the State of Tennessee or Mississippi. The activities of both corporations will be conducted from a *de novo* office located at 6242 Poplar Avenue, Suite 100, Memphis, Tennessee, serving the entire States of Tennessee and Mississippi.

D. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, April 2, 1982.

Dolores S. Smith,
Assistant Secretary of the Board.

[FR Doc. 82-9620 Filed 4-8-82; 8:45 am]

BILLING CODE 6210-01-M

The Summit Bancorporation; Acquisition of Bank

The Summit Bancorporation, Summit, New Jersey, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Town and Country Bank, Flemington, New Jersey. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment

on the application should submit views in writing to the Reserve Bank to be received not later than May 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 5, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-9619 Filed 4-8-82; 8:45 am]

BILLING CODE 6210-01-M

Northern Cities Bancorporation, Inc.; Acquisition of Bank

Northern Cities Bancorporation, Inc., Anoka, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 87.16 per cent of the voting shares of Tri-County National Bank, Forest Lake, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 5, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-9618 Filed 4-8-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Ophthalmic Device

Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel scheduled for April 15 and 16, 1982.

FOR FURTHER INFORMATION CONTACT: George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: FDA is cancelling the above-named meeting, which was to be held April 15 and 16, 9 a.m., Rms. 703-727A, 200 Independence Ave. SW., Washington, D.C. The meeting was to have both "open" and "closed" portions. Notice of the meeting was published in the Federal Register of Friday, March 12, 1982 (47 FR 10905).

Dated: April 1, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9291 Filed 4-2-82; 4:00 pm]

BILLING CODE 4160-01-M

[Docket No. 82N-0067]

Formalin for Use in Fish Culture; Availability of Data

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of safety and effectiveness data to be used in support of a new animal drug application (NADA) for use of formalin in fish. The data, contained in Master File 3543, were compiled by the U.S. Fish and Wildlife Services (FWS), Department of Interior.

ADDRESS: Submit NADA's to Document Control Staff (HFV-16), Bureau of Veterinary Medicine, Food and Drug Administration, Rm. 6B-45, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-433-3410.

SUPPLEMENTARY INFORMATION: The customary uses of formalin in raising food fish are animal drug uses under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)), and as such are subject to section 512 of the act (21 U.S.C. 360b) requiring that said use be the subject of an approved NADA. FWS, Division of Fishery Ecology Research, Department of the Interior, Washington, D.C. 20240, has provided data and information to demonstrate the safe and effective use of formalin to control external protozoa and monogenetic trematodes on cultured food and sport fishes (trout, salmon,

catfish, largemouth bass, and bluegill) and to control fungi on trout, salmon, and esocid eggs. The data and information are contained in MF 343. In addition, the master file contains information on drug residues and environmental impact data relative to the use of the drug. Persons filing NADA's may reference the master file to support a new animal drug application. Such an application should include, in addition to an authorized reference to the master file, drug labeling, manufacturing methods, facilities, controls, and an environmental impact analysis report addressing item D.2.c. of the format under 21 CFR 25.1(j) regarding the manufacture of the drug. Persons desiring more information concerning data and information available to support their submissions may contact the Bureau of Veterinary Medicine, see address above.

Dated: March 31, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9452 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0087]

Sandoz Colors and Chemicals; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sandoz Colors & Chemicals has filed a petition proposing a change in the food additive regulations to remove the upper viscosity limit of polyamide-epichlorohydrin water-soluble thermosetting resins.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334) Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3622) has been filed by Sandoz Colors & Chemicals, East Hanover, NJ 07936, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended by removing the upper viscosity limit of a currently regulated retention aid. The retention aid is polyamide-epichlorohydrin water-soluble thermosetting resins prepared by reacting adipic acid with

diethylenetriamine to form a basic polyamide and further reacting the polyamide with an epichlorohydrin and dimethylamine mixture.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: March 31, 1982.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 82-9453 Filed 4-8-82; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 82N-0056]

Working Relationships Agreement Among FDA's Bureaus of Medical Devices, Radiological Health, and Biologics; Availability of Document

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document that describes a division of the responsibilities for medical devices under the Medical Device Amendments of 1976 among FDA's Bureau of Medical Devices (BMD), Bureau of Radiological Health (BRH), and Bureau of Biologics (BB). BRH is the lead Bureau for regulation of devices that involve the use of radiation. BB is the lead Bureau for regulation of devices that are used in the processing or administration of biological products. BMD is the lead Bureau for all other devices.

EFFECTIVE DATE: April 1, 1982.

ADDRESS: Copies of the document are available from the Dockets Management Branch (HFA-305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Leighton W. Hansel, Bureau of Medical Devices (HFK-120), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8156.
or
Walter E. Gundaker, Bureau of Radiological Health (HFX-400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4016.
or
Madge L. Crouch, Bureau of Biologics (HFB-701), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-5177.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583), amending the Federal Food, Drug, and Cosmetic Act (the act) (52 Stat. 1040 et seq. (21 U.S.C. 201 et seq.)), became law on May 28, 1976. Since enactment, BMD has taken the lead responsibility within FDA to develop and implement programs under these new authorities. BRH is responsible for administering the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263b et seq.)). Both statutes apply to medical devices that emit electronic product radiation and to their accessories. BB is responsible for the regulation of biological products under Section 351 of the Public Health Service Act (42 U.S.C. 262) (PHS Act). Both the act and the PHS Act apply to medical devices that are licensed biologics.

In 1979, to avoid duplication and overlap, BMD and BRH established working relationships involving clearly defined responsibilities appropriated between the two Bureaus. In the Federal Register of April 24, 1979 (44 FR 24236), FDA announced the availability of a document describing the working relationship between BMD and BRH. The notice also indicated that in the future FDA may designate that BB be the lead Bureau for certain medical devices.

FDA now has determined that an extension and expansion of the working relationships of 1979 for medical devices would be helpful. Therefore, FDA has developed a new working relationships agreement which outlines the division of certain regulatory responsibilities for medical devices among BMD, BRH, and BB. Under the new agreement, each of the three Bureaus essentially implements programs to regulate certain identified devices for which it has lead Bureau responsibility. The three Bureaus will coordinate their activities in order to apply the authorities under the act in a consistent manner. BRH is designated the lead Bureau in FDA for regulating medical devices to ensure their safety and effectiveness that involve the use of radiation. BB is designated the lead Bureau in FDA for regulating certain medical devices used in the processing or administration of biological products to ensure their safety and effectiveness. BMD is designated the lead Bureau in FDA for regulating all medical devices not assigned to BRH or BB. BMD also is designated the Bureau for major policy development and for the promulgation and interpretation of procedural regulations under the act for all devices. Inquiries and submissions, such as premarket notifications, applications for investigational device exemptions,

product development protocols, petitions for reclassification, and applications for premarket approval are to be made directly to the lead Bureau for the particular device. Establishment registration and device listing, for all devices, will remain with BMD. If there is doubt about which of the Bureaus is responsible for a specific device, a submission concerning that device should be made to BMD. Each Bureau will be responsible for the advisory committees that review the devices in that Bureau's area.

In a press release dated March 16, 1982, FDA announced that it is planning to merge the Bureau of Biologics with the Bureau of Drugs. The merger is not expected to have any effect on the working relationships agreement, as the new organization will carry out responsibilities assigned to the Bureau of Biologics under the agreement.

A more detailed description of the affected products and of the programs for which BMD, BRH, or BB is responsible is contained in the document "Working Relationships Agreement Among Bureau of Medical Devices, Bureau of Radiological Health, and Bureau of Biologics," available from the Dockets Management Branch (address above). Requests for copies of the document should be identified with the docket number found in brackets in the heading of this notice.

Dated: April 2, 1982.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-9450 Filed 4-8-82; 8:45 am]
BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Boston District Office, chaired by Frederick R. Carlson, District Director.

DATE: The meeting will be held Tuesday, April 20, 1982, 10 a.m. to 12:30 p.m.

ADDRESS: The meeting will be held in the Conference Rm., Deeds and Probate Bldg., Railroad Ave., Barnstable, MA 02630.

FOR FURTHER INFORMATION CONTACT: Yolán L. Harsanyi, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109, 617-223-5857.

Philadelphia District Office, chaired by Loren Johnson, District Director.

DATE: The meeting will be held Tuesday, April 20, 1982, 1 p.m.

ADDRESS: The meeting will be held in the Federal Bldg., 1000 Liberty Ave., Rm. 2214, Pittsburgh, PA 15220.

FOR FURTHER INFORMATION CONTACT: Theresa Young, Consumer Affairs Technician, Food and Drug Administration, 2nd and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

Seattle District Office, chaired by Kenneth A. Hansen, District Director.

DATE: The meeting will be held Thursday, April 22, 1982, 1:30 p.m. to 3:30 p.m.

ADDRESS: The meeting will be held in the Lloyd Center Auditorium, 1002 NE Holladay, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Ellen M. Miller, Consumer Affairs Officer, Food and Drug Administration, 5003 Federal Office Bldg., Seattle, WA 98174, 206-442-5258.

Newark District Office, chaired by Matthew H. Lewis, District Director.

DATE: The meeting will be held Thursday, April 22, 1982, 1 p.m. to 3 p.m.

ADDRESS: The meeting will be held at Stockton State College, Pamonia, NJ 08240.

FOR FURTHER INFORMATION CONTACT: Joan A. Godal, Consumer Affairs Officer, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-6365.

Buffalo District Office, chaired by Gerald L. Roach, Director, Laboratory Branch, Buffalo District.

DATE: The meeting will be held Monday, April 26, 1982, 1:30 p.m.

ADDRESS: The meeting will be held in Rm. 1440, U.S. Federal Bldg., W. Huron and Delaware Ave., Buffalo, NY 14202.

FOR FURTHER INFORMATION CONTACT: Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716-848-4483.

Orlando Districts Office, chaired by Adam Trujillo, District Director.

DATE: The meeting will be held Tuesday, April 27, 1982, 1:30 p.m. to 4 p.m.

ADDRESS: The meeting will be held at the Orlando District Office, 7200 Lake Ellenor Dr., Rm. 120 Orlando, FL 32809.

FOR FURTHER INFORMATION CONTACT: Lynne Isaacs, Consumer Affairs Officer, Food and Drug Administration, P.O. Box 118, Orlando, FL 32802, 305-855-0900.

Los Angeles District Office, chaired by Abraham I. Kleks, District Director.

DATE: The meeting will be held Tuesday, April 27, 1982, 9:30 a.m.

ADDRESS: The meeting will be held at the Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott Consumer Affairs Officer, Food and Drug Administration, 1521 W. Pico Blvd., Los Angeles, CA 90015, 213-4395.

New York District Office, chaired by George J. Gerstenberg, District Director.

DATE: The meeting will be held Tuesday, April 27, 1982, 9:30 a.m. to 12 m.

ADDRESS: The meeting will be held in the University Lounge Brooklyn College, Ave. H/Bedford Ave., Brooklyn, NY 11210.

FOR FURTHER INFORMATION CONTACT: Carolyn L. Hommel, Consumer Affairs Technician, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5043.

St. Louis Station, Chaired by Ronald M. Johnson, Station Director.

DATE: The meeting will be held Wednesday, April 28, 1982, 1:30 p.m. to 3:30 p.m.

ADDRESS: The meeting will be held at the Food and Drug Administration, 808 N. Collins, St. Louis, MO 63102.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richard, Consumer Affairs Officer, Food and Drug Administration, 808 N. Collins, St. Louis, MO 63102, 314-425-5021.

New Orleans District Office, chaired by Robert O. Bartz, District Director.

DATE: The meeting will be held Thursday, April 9, 1982, 1:30 p.m.

ADDRESS: The meeting will be held at the Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122.

FOR FURTHER INFORMATION CONTACT: Frances G. Brysson, Consumer Affairs Officer, Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-2420.

San Francisco District Office, chaired by William C. Hill, District Director.

DATE: The meeting will be held Thursday, April 29, 1982, 1:30 p.m.

ADDRESS: The meeting will be held at the Conference Rm., Senior Citizens Center of Washoe County, 1155 E. 9th St., Reno, NV 89512.

FOR FURTHER INFORMATION CONTACT: Janet Codor, Acting Consumer Affairs Officer, Food and Drug Administration, 50 United Nations Plaza, San Francisco, CA 94102, 415-556-2062.

SUPPLEMENTARY INFORMATION: The purpose of those meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policy making decisions on vital issues.

Dated: April 5, 1982.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 82-9562 Filed 4-6-82; 12:02 pm]

BILLING CODE 4160-01-M

[Docket No. 82F-0079]

Kuraray Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Kuraray Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers as articles or components of articles in contact with food.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St., SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3320) has been filed by Kuraray Co., Ltd., 8, Umeda, Kita-Ku, Osaka, Japan, proposing that § 177.1360 *Ethylene-vinyl acetate-vinyl alcohol copolymers* (21 CFR 177.1360) be amended to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers containing a minimum of 20 percent ethylene, such that the finished copolymer will contain no more than 80 percent vinyl alcohol units by weight, as articles or components of articles in contact with food.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 1982.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 82-9563 Filed 4-6-82; 8:45 am]

BILLING CODE 4160-01-M

(FDA-225-82-2001)

Rennet Casein; Memorandum of Understanding With the Royal Norwegian Ministry of Agriculture**AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Royal Norwegian Ministry of Agriculture. The purpose of the understanding is to improve the compliance status of rennet casein exported from Norway to the United States, and to minimize the need for extensive FDA audit sampling of certified rennet casein from Norway.

EFFECTIVE DATE: The memorandum of understanding became effective February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1580.

SUPPLEMENTARY INFORMATION: FDA's policy is to publish in the Federal Register all agreements and memorandums of understanding between FDA and others (21 CFR 20.108(c)). Therefore, the agency is publishing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING

Between The

FOOD AND DRUG ADMINISTRATION
And TheROYAL NORWEGIAN MINISTRY OF
AGRICULTURE COVERING RENNET
CASEIN EXPORTED TO THE UNITED
STATES OF AMERICA**I. Objectives**

The mutual goals of the Food and Drug Administration and the Royal Norwegian Ministry of Agriculture is entering into this Memorandum of Understanding are to:

1. Improve the compliance status of rennet casein exported from Norway to the United States, by assuring that contaminated and/or underprocessed rennet casein will not be imported to the United States.

2. Minimize the need for extensive Food and Drug Administration audit sampling of certified rennet casein from Norway that may be necessary without this Memorandum of Understanding.

II. Definitions

For purposes of this Memorandum, both parties agree to the following definitions:

Lot—A lot is a quantity of rennet casein produced by one manufacturer during a discrete period of time not exceeding 1 day. It is produced in one continuous process using a single processing line packaged in identical containers identified by a unique code traceable to the manufacturer.

Salmonella-negative—The absence of Salmonella in thirty 25-gram portions each taken from a lot of rennet casein. The portions are reconstituted individually, or composited, and tested by procedures outlined in the "Bacteriological Analytical Manual," 5th Ed., or in the "Methods of Analysis, Association of Official Analytical Chemists", 13th Ed.

Phosphatase-negative—Less than 1 microgram of phenol per milliliter of milk, in each of the 30 reconstituted 25-gram portions or composited units. The Sharer Rapid Method will be used to indicate no underpasteurization or contamination with raw milk.

Penicillin-negative—The absence of detectable residues of penicillin in each of the 30 reconstituted 25-gram portions or composited units. The *S. lutea* cylinder method or the *B. stearothermophilus* variety calidolactis, disk assay method will be used to test for the presence of penicillin.

III. Obligations of Participants*The Royal Norwegian Ministry of Agriculture*

The Royal Norwegian Ministry of Agriculture (NMA) is the responsible government agency of Norway for the administration of the regulations governing the import and export of rennet casein. To fulfill its responsibilities under these regulations, NMA directs its activities to ensure that the rennet casein is fit for human consumption. This is accomplished by inspecting products before distribution and by collecting and examining samples to ensure compliance with appropriate regulations.

To discharge its responsibilities regarding rennet casein and to fulfill this Memorandum of Understanding commitment:

1. The Royal Norwegian Ministry of Agriculture will have Meierilaboratoriet (ML) in Oslo (Control Institute for Milk and Dairy Products under the supervision of NMA) inspect each lot of rennet casein offered to it by the manufacturer for export to the United States. This inspection will be made to determine whether the lot is *Salmonella*-

negative, phosphatase-negative, and penicillin-negative. The ML will ensure by appropriate procedures that these analyses are completed as described in section V. below.

2. The NMA will have ML issue an export certificate only for those lots which are *Salmonella*-negative, phosphatase-negative, and penicillin-negative.

3. The ML will require all containers of lots exported to the United States, under certification, to be identified by a lot number and marked with the lot number. All other information required by the Federal Food, Drug, and Cosmetic Act will also be included.

4. The ML will include the following information in the certificate for each lot exported to the United States:

a. Lot identification, including name and address of manufacturer;

b. Number and size of containers in the lot;

c. Packing list indicating those lots physically in each "Containerized Cargo" unit;

d. Analytical results for *Salmonella*, phosphatase, and penicillin;

e. Date of certificate; and,
f. Name and stamp or seal of authorizing official. The validated certificate will accompany the shipping manifest.

5. The ML will furnish the Food and Drug Administration with a copy of its current regulations and the procedures used to ensure that the rennet casein is acceptable.

6. The ML will furnish the Food and Drug Administration with a full description of the manufacturing processes and quality controls used to ensure the production of sanitary rennet casein fit for human consumption.

The Food and Drug Administration

The Food and Drug Administration (FDA) of the Department of Health and Human Services is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. FDA directs its activities toward the protection of the public health of the United States by ensuring that foods are safe and wholesome and are honestly and informatively labeled. This is accomplished by inspecting the processing and distribution of foods. In addition, it involves collecting and examining samples to ensure compliance with these statutes. FDA makes a concerted effort to ensure that foods entering the United States meet the same standards as domestic products. To discharge these responsibilities regarding rennet casein

and to fulfill this Memorandum of Understanding commitment:

1. The Food and Drug Administration will sample rennet casein certified under this MOU to ensure that the exporting country and the exported products comply with the applicable specifications. The frequency of sampling may be reduced when confidence is gained regarding the compliance of the products to the specifications of this Memorandum of Understanding. FDA may also examine the certified lots for other attributes to determine whether the products comply with other requirements of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act.

2. The Food and Drug Administration will share any information obtained through its audit sampling with the Royal Norwegian Ministry of Agriculture.

3. The Food and Drug Administration will promptly notify the Royal Norwegian Ministry of Agriculture of any detention of rennet casein covered by this Memorandum of Understanding and of any modifications to the statutes, or the regulations pertaining to rennet casein.

4. The Food and Drug Administration will share expertise and provide assistance to Norway when necessary. Areas of mutual cooperation will include: data gathering, technical information updating, and the exchange of new and/or improved methods of sampling and testing rennet casein. This will help ensure the safety of rennet casein exported to the United States.

IV. Sample Collection

The same subsamples will be used for determining the presence of *Salmonella*, phosphatase, and penicillin. They will be collected as follows:

Using aseptic techniques, 30 subsamples, each of approximately 100 grams, will be randomly collected from each lot. If a lot contains packaging units weighing approximately 225 grams (about 8 ounces) or less, but more than 100 grams, 30 of these units will be randomly collected, unopened, from the lot.

V. Analytical Methodology

The subsamples of rennet casein will be aseptically reconstituted. To reduce the analytical workload, the subsamples collected from a lot may, at the option of the testing laboratory, be combined to give 2 to 10 composites and then reconstituted. Examples of compositing combinations are given in Attachment A.

1. *Salmonella*. Reconstituted rennet casein will first be analyzed for

presence of *Salmonella* according to the methods contained in:

a. "Bacteriological Analytical Manual," 5th Ed., 1978, Chapter VI—Detection and Identification of *Salmonella*, including *S. arizonae*, or

b. "Official Methods of Analysis, Association of Official Analytical Chemists," 13th Ed., 1980, Chapter 46, Microanalytical Methods, section 46.054, et. seq. (Note: Both a. and b. give methods based upon 100-gram samples. For this Memorandum of Understanding, thirty 25-gram samples will be used instead.)

2. *Phosphatase*. Reconstituted rennet casein will be tested for phosphatase activity by the Scharer Rapid Method for Phosphatase Analysis. This method is described in "Standard Methods for the Examination of Dairy Products," 14th Ed., 1978, section 18.4.

3. *Penicillin*. Reconstituted rennet casein will be tested for penicillin residues by the following methods:

a. The *S. lutea*, cylinder method, as described in "Official Methods of Analysis, Association of Official Analytical Chemists," 13th Ed., section 42.278, et. seq.

b. The *B. stearothermophilus*, variety calidolactis, disk assay method described in the International Standard FIL-IDF 57:1970 of the International Dairy Federation.

ML may choose to use either of these methods for certification of lots. FDA will continue to use the official Association of Official Analytical Chemists method in its regulatory enforcement of rennet casein.

Reference of Analytical Methods Cited in This Memorandum of Understanding

1. "Bacteriological Analytical Manual," 5th Ed., 1978. The Association of Official Analytical Chemists, 1111 No. 19th St. Arlington, VA 22209.

2. "Official Methods of Analysis, Association of Official Analytical Chemists," 13th Ed., 1980. The Association of Official Analytical Chemists, 1111 No. 19th St. Arlington, VA 22209.

3. "Standard Methods for the Examination of Dairy Products," 14th Ed., 1978, section 18.4, American Public Health Association, 1015 18th St. NW., Washington, DC 20036.

4. "The International Standard FIL-IDF 57:1970," International Dairy Federation, General Secretariat, Square Vergot 41, Brussels, Belgium.

VI. Administrative Procedures

This Memorandum of Understanding will become effective upon signature of both parties and will remain in effect indefinitely. It may be modified by mutual consent or may be terminated by either party upon a 30-day written advance notice to the other.

In witness whereof, the Agencies have executed this Memorandum of Understanding covering rennet casein.

For the Royal Norwegian Ministry of Agriculture.

Dated: February 26, 1982.

Magne Subsen,
Director General.

For the Food and Drug Administration.

Dated: January 4, 1982.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

Effective date. This Memorandum of Understanding became effective February 26, 1982.

Dated: April 5, 1982.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9504 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0100]

National Patent Development Corp.; Premarket Approval of Hydron™ Saline System (135 Mg)

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Hydron™ Saline System (135 mg) for all soft (hydrophilic) contact lenses, sponsored by National Patent Development Corp., New Brunswick, NJ. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by May 10, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On August 28, 1981, National Patent Development Corp., New Brunswick, NJ,

submitted to FDA an application for premarket approval of Hydron™ Saline System (135 mg) for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat, and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On March 15, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from salt tablets for the above use comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of Hydron™ Saline System (135 mg) states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of such contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved soft contact lens,

the sponsor of each lens shall correct its labeling to refer to the new solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 10, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 5, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-9565 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P-0088]

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a temporary permit has been issued to Nestle-Libby (Puerto Rico), Inc., to market test tomato juice from concentrate to which ascorbic acid is added to attain a vitamin C level of 10 milligrams per fluid ounce. The purpose of this temporary permit is to permit the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than July 8, 1982. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the Federal Register of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In accordance with § 130.17 (21 CFR 130.17) concerning temporary permits to facilitate market testing of foods varying from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Nestle-Libby (Puerto Rico), Inc., San Juan, Puerto Rico 00936. This permit covers limited interstate marketing tests of tomato juice that deviates from the standard of identity prescribed in § 156.145 (21 CFR 156.145). The product is prepared from tomato paste that complies with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)). The test product is equivalent to a single-strength tomato

juice normally found in the marketplace. The finished product contains not less than 5.5 percent tomato soluble solids. In addition, ascorbic acid is added to attain a level of 10 milligrams per fluid ounce of vitamin C in the finished product. The permit provides for the temporary marketing of 18,000 cases of twelve 46-ounce cans; 18,000 cases of twenty-four 12-ounce cans; and 150,000 cases of seventy-two 7.1-ounce cans of the product to be distributed in Puerto Rico and the Virgin Islands.

The test product is to be packed at the Nestle-Libby (Puerto Rico), Inc., plant located in Santa Isabel, Puerto Rico.

The principal display panel of the label states the product name as "tomato juice from concentrate" and the phrase "enriched with vitamin C." Each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than July 8, 1982. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the *Federal Register* of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: April 5, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-9566 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0101]

Cobe Laboratories, Inc.; Premarket Approval of Cobe Centry® TPE System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Cobe Centry® TPE System sponsored by Cobe Laboratories, Inc., Lakewood, CO. After reviewing the recommendation of the Gastroenterology-Urology Device Section of the General Medical Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by May 10, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On July 24, 1981, Cobe Laboratories, Inc., Lakewood, CO, submitted to FDA an application for premarket approval of the Cobe Centry® TPE System, a membrane plasma separation system intended for use in therapeutic plasma exchange. The application was reviewed by the Gastroenterology-Urology Device Section of the General Medical Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of this device on patients who require therapeutic plasma exchange. On March 16, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and

shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 10, 1982, file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 5, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-9567 Filed 4-8-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Annual Revision of Poverty Income Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides a revision of the Federal poverty income guidelines to account for increases in the Consumer Price Index.

DATE: Effective upon publication.

ADDRESS: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Room 447F.6, Humphrey Building, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: George Grob; telephone: (202) 245-7150; or Joan Turek-Brezina; telephone: (202) 245-6141.

This notice provides the 1982 revision of the poverty income guidelines required by sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981. (The 1981 revision of those guidelines was issued by the Community Services Administration in the *Federal Register* for March 5, 1981, at 46 FR 15270, revising 45 CFR 1060.2.) As required by the statute, this revision

reflects changes in the Consumer Price Index; it was accomplished using the same methodology used in previous years.

These poverty income guidelines are used as an eligibility criterion by a number of Federal programs. In some cases, the poverty guidelines are only one of several eligibility criteria used by a program. In such cases, the other eligibility criteria, as well as any program-specific modifications in the application of these guidelines, will continue to be described in the authorizing legislation or regulations for the programs in question.

1982—POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit	Nonfarm family	Farm family
1	\$4,680	\$4,010
2	6,220	5,310
3	7,760	6,610
4	9,300	7,910
5	10,840	9,210
6	12,380	10,510

For family units with more than 6 member, add \$1,540 for each additional member in a nonfarm family and \$1,300 for each additional member in a farm family.

1982—POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	Nonfarm family	Farm family
1	\$5,870	\$5,030
2	7,790	6,650
3	9,710	8,270
4	11,630	9,890
5	13,550	11,510
6	15,470	13,130

For family units with more than 6 member, add \$1,920 for each additional member in a nonfarm family and \$1,620 for each additional member in a farm family.

1982—POVERTY INCOME GUIDELINES FOR HAWAII

Size of family unit	Nonfarm family	Farm family
1	\$5,390	\$4,630
2	7,160	6,120
3	8,930	7,610
4	10,700	9,100
5	12,470	10,590
6	14,240	12,080

For family units with more than 6 member, add \$1,770 for each additional member in a nonfarm family and \$1,490 for each additional member in a farm family.

Dated: April 5, 1982.
Richard S. Schweiker,
Secretary of Health and Human Services.
[FR Doc. 82-9678 Filed 4-8-82; 8:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Formalin for Use in Fish Culture; Availability of Data Cross Reference

For a notice issued by the Food and Drug Administration announcing the availability of data demonstrating the safe and effective use of formalin in fish culture, see FR Doc. 82-9452 appearing elsewhere in the Notice Section of this issue of the Federal Register.

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Thomas R. Nichols,
Virginia Beach, VA—PRT 2-8946

The applicant requests a permit to take peregrine falcons (*Falco peregrinus anatum/tundrius*) from Virginia, North Carolina and Texas for banding and radio telemetry purposes and to take blood samples for pesticide analysis. This proposal is for scientific research.

Applicant: George Felton, Baton Rouge Zoo, Baker, LA—PRT 2-8666

The applicant requests an amendment to Endangered Species permit PRT 2-8666 to authorize export of two captive-bred jaguars (*Panthera onca*) to the Parc Safari Africain, Quebec, Canada, instead of export of one. The permit is for enhancement of propagation.

Applicant: Predatory Bird Research Group, University of California, Santa Cruz, CA—PRT 2-8947

The applicant requests a permit to take peregrine falcon (*Falco peregrinus anatum*) eggs from Crater Lake National Park for hatching in captivity for enhancement of survival. Hatched young will be returned to the original eyrie or to one within the known range of West Coast American peregrine falcons.

Applicant: Roxy Engesser, Chiefland, FL—PRT 2-8023

The applicant requests a permit to export and re-import one captive-born jaguar (*Panthera onca*) to Canada and back for the purpose of conservation exhibition.

Applicant: San Diego Zoo, San Diego, CA—PRT 2-8960

The applicant requests as permit to import three (3) captive-bred Tibetan hairy-eared brown bears (*Ursus arctos*

pruinosis) from the Kwangchow Zoo, Peoples Republic of China for enhancement.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before May 10, 1982 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: April 5, 1982.

R. K. Robinson,
Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-9679 Filed 4-8-82; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Land Management

[DES 82-12]

Gunnison Basin and American Flats/ Silverton Wilderness Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification of release of draft environmental impact statement for wilderness study areas; Montrose District, Colorado.

SUMMARY: This notice summarizes the present status of the Wilderness Draft Environmental Impact Statement (DEIS) affecting eight Wilderness Study Areas (WSAs) totaling 78,135 acres of public lands in the Gunnison Basin and American Flats/Silverton Planning Units in the Montrose District, Colorado.

FOR FURTHER INFORMATION CONTACT: Lance E. Nimmo, Bureau of Land Management, Montrose District Office, P.O. 1269, 2465 South Townsend Avenue, Montrose, Colorado 81402, Telephone (303) 249-7791.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (BLM) in Colorado has released a Draft Environmental Impact Statement (DEIS) for public review on the wilderness and non-wilderness recommendations for eight Wilderness Study Areas (WSAs) totaling 78,135 acres of public lands in the Gunnison Basin and American Flats/Silverton Planning Areas.

The DEIS analyzes the potential impacts resulting from the recommended inclusion of 28,415 acres of public lands in the Montrose District of southwestern Colorado in the National Wilderness Preservation System and recommended exclusion of 49,720 acres.

The recommendations made in the Wilderness Draft Environmental Impact Statement are not final decisions.

Following the public comments on the DEIS, a final EIS and recommendations will be prepared for the signature of the Secretary of the Interior, and submitted to Congress for final decision on which areas will be designated into the National Wilderness Preservation System.

A mineral survey will be conducted by the U.S. Geological Survey and U.S. Bureau of Mines on those lands recommended preliminary suitable for wilderness designation prior to the final recommendation by the BLM.

The eight WSAs included in this DEIS are Redcloud Peak (40,575 acres), Handies Peak (18,860 acres), American Flats (4,710 acres), Bill Hare Gulch (370 acres), Larson Creek (900 acres), Weminuche Contiguous (1,980 acres), Whitehead Gulch (6,200 acres), and Needle Creek (4,540 acres). A total of three to five alternatives were studied and analyzed for each WSA. For all areas, this included designation of the entire WSA as wilderness, and designation of none of the WSA (no action) as wilderness. Other alternatives considered were based on manageability of the WSA and conflict resolution(s).

The BLM's preferred alternative for each of the WSAs is summarized as follows:

Redcloud Peak—A total of 11,140 acres, including Redcloud and Sunshine Peaks and the Cooper Creek and Silver Creek drainages, would be recommended for wilderness designation. A total of 29,435 acres, including Red Mountain and Alpine Gulch, would be recommended for non-wilderness.

Handies Peak—A total of 7,120 acres, including Handies Peak, Whitecross Mountain, Grizzly and Boulder Gulches, would be recommended for wilderness designation. A total of 11,740 acres, including Snare Creek Basin and Cataract Gulch, would be recommended for non-wilderness.

Bill Hare Gulch—The entire WSA, totalling 370 acres would be recommended for non-wilderness.

Larson Creek—The entire WSA, totalling 900 acres, would be recommended for non-wilderness.

Weminuche Contiguous—A total of 375 acres would be recommended as an

addition to the existing Weminuche Wilderness Area. A total of 1,605 acres, including Spencer Basin, would be recommended for non-wilderness.

Whitehead Gulch—A total 4,115 acres, including Mount Garfield, would be recommended as an addition to the existing Weminuche Wilderness Area. A total of 2,085 acres would be recommended for non-wilderness.

Needle Creek—A total of 4,160 acres, including Needle and Ruby Creek, would be recommended as an addition to the existing Weminuche Wilderness Area. A total of 380 acres would be recommended for non-wilderness.

American Flats—A total of 1,505 acres, including American Lake, would be recommended as an addition to the existing Big Blue Wilderness Area. A total of 3,205 acres, including Sunshine Mountain, would be recommended for non-wilderness.

The DEIS can be obtained from the District Manager, Bureau of Land Management, Montrose District Office, P.O. Box 1269, 2465 South Townsend Avenue, Montrose, Colorado 81402; and Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, Colorado 80202.

Copies of the DEIS are also available for inspection at the following locations: Bureau of Land Management, Division of Wilderness and Environmental Areas, Room 5616, 18th and C Streets, NW., Washington D.C.; Gunnison Basin Resource Area (BLM), 11 South Park Avenue, Montrose, Colorado; San Juan Resource Area (BLM), 701 Camino Del Rio, Durango, Colorado; Conservation Library, Denver Public Library, 1357 Broadway, Denver, Colorado; Montrose Regional Library, 434 South First, Montrose, Colorado; Gunnison Public Library, 307 N. Wisconsin, Gunnison, Colorado; Western State College Library, Gunnison, Colorado; Crested Butte Library, 312 N. Main, Crested Butte, Colorado; Silverton Public Library, 1118 Reese, Silverton, Colorado; Durango Public Library, 1188 Second Avenue, Durango, Colorado; Montrose County Courthouse, Montrose, Colorado; Gunnison County Courthouse, Gunnison, Colorado; Hinsdale County Courthouse, Lake City, Colorado; San Juan County Courthouse, Silverton, Colorado; Saguache County Courthouse, Saguache, Colorado; and Ouray County Courthouse, Ouray, Colorado.

Written comments on the adequacy of the DEIS should be submitted by July 8, 1982, to the District Manager, Montrose District Office, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81402. Oral and written comments will be received at public

meetings to be held at the following locations and dates at 7:00 p.m.:

Monday, May 10, 1982—Community Center in Lake City, Colorado
Tuesday, May 11, 1982—Town Hall in Silverton, Colorado
Thursday, May 13, 1982—Denver Botanical Gardens, 1005 York, Denver, Colorado

Requests to testify orally should be received by the Montrose District Office at the above address prior to close of business on May 4, 1982. Requests should identify the organization represented and should be signed by the prospective witness. The cut-off date is necessary so that a witness list can be made available on the day of the public hearing.

Comments on the DEIS, whether written or oral, will receive equal consideration in preparation of a final EIS and Study Report.

Bob Moore,

Associate State Director.

[FR Doc. 82-9292 Filed 4-8-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

[F 14905-A]

Alaska Native Claims Selection

Correction

In FR Doc. 82-8758 appearing on page 13903 in the issue of April 1, 1982, please make the following change.

On page 13904, Column 1, section 33 should read in part as follows:

Section 33, excluding U.S. Survey No. 4053 lot 1 (Alaska Native Claims Settlement Act Sec. 3(e) application AA-41463), U.S. Survey No. 4053 lot 2, Alaska Native Claims Settlement Act Section 3(e) application AA-41464, Townsite Petition * * *

Beaumont C. McClure,

Chief, Alaska Programs Staff.

[FR Doc. 82-9696 Filed 4-8-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held on Thursday, May 6, 1982 at 7:30 p.m. in the auditorium at Arthur E. Wright Middle School, 4029 Las Virgenes Road, Calabasas.

The Advisory Commission was established by Public Law 95-625 to provide for free exchange of ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The major agenda item include the following:

Update on the Management of Parkland Study
Interim parking at Rancho Sierra Vista
Committee reports
Superintendent's status report

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

Minutes of the meeting will be available for public inspection by June 11, 1982, at the above address.

Dated: March 31, 1982.

Robert S. Chandler,
Superintendent, Santa Monica Mountains
National Recreation Area.

[FR Doc. 82-9668 Filed 4-8-82; 8:45 am]
BILLING CODE 4310-70-M

Statue of Liberty-Ellis Island Centennial Commission; Establishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing the Statue of Liberty-Ellis Island Centennial Commission. The purpose of the Commission shall be to serve as the primary citizen advisory body to the Secretary and the National Park Service on all matters pertaining to the

preservation of Ellis Island and the Statue of Liberty, as well as the centennial celebrations of each. It is anticipated that the Commission will advise the Secretary, without limitation, on the means and schedules of preservation, the projected uses of the facilities, the needs and uses of donated funds, property and services, the programs and activities associated with centennial celebrations and the ongoing programs and activities associated with both the Statue of Liberty and Ellis Island.

Further information regarding the committee may be obtained from the Director, National Park Service, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240.

The certification of establishment is published below.

Certification

I hereby certify that the Statue of Liberty-Ellis Island Centennial Commission is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 16 U.S.C., *et seq.*, and 16 U.S.C. 431, *et seq.*

Dated: March 11, 1982.

Donald Paul Hodel,
Acting Secretary of the Interior.

[FR Doc. 82-9669 Filed 4-8-82; 8:45 am]
BILLING CODE 4310-70-M

Temporary Ellis Island Preservation Advisory Council; Establishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing the Temporary Ellis Island Preservation Advisory Council. The Temporary Ellis Island Preservation Council will be composed of experts selected for the purpose of providing specific technical advice on the feasibility, reasonableness and practicality of proposals submitted for the leasing of structures on Ellis Island.

Further information regarding the Council may be obtained from the Director, National Park Service, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240.

The certification of establishment is published below.

Certification

I hereby certify that the Temporary Ellis Island Preservation Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of the

Interior by 16 U.S.C., *et seq.*, and 16 U.S.C. 431, *et seq.*

Dated: March 11, 1982.

Donald Paul Hodel,
Acting Secretary of the Interior.

[FR Doc. 82-9670 Filed 4-8-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We Find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

The decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79592. By decision of March 26, 1982, Review Board No. 3 modified its prior decision published February 18, 1982, and approved the transfer to Stewart Trucking Co., (a New Hampshire Corporation), of Manchester, NH, of Certificates No. MC-87523 and Subs. 93, 95, 96F, 97F, 99F, 108F, 109F, 110F, 112, 113F, 114, 115, 116, 117, and 119F, (as amended), issued to Stewart Trucking Company, Inc. (a Massachusetts Corporation), of Manchester, NH, authorizing named commodities between various points in the U.S. Representative: Edward J. Kiley, 1730 M St., NW., Suite 501, Washington, D.C. 20036.

MC-FC-79672. By decision of March 31, 1982 issued under 49 U.S.C. 10926 and the transfer rules of 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Carl O. Boone, Sr. d.b.a. Boone Express of a portion of Certificate No. MC-16550 (Sub-No. 7) issued to Walter Potter authorizing the transportation of *automotive parts, supplies and accessories, and theater supplies*, between Nashville, TN and Glasgow, KY. Applicants' representative: Carl O. Boone, Sr., 102 Cumberland Drive, P.O. Box 114, Smyrna, TN 37167.

Note.—Transferee holds ICC authority.

MC-FC-79687. By decision of 3/29/82, issued under 49 U.S.C. 1092 and transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to DAKOTA BAKE-N-SERV, INC., of Jamestown, ND, of Permit No. MC-152915 (Sub-No. 2), issued February 16, 1982, to SUNNYDALE DISTRIBUTING CORPORATION, of Jamestown, ND, authorizing: general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States, under continuing contracts with (1) North Pacific Cannery and Packers of Portland, OR; (2) Lamb-Weston, Inc., of Portland, OR; (3) The Gillette Company of Boston, MA; (4) The J.B. Williams Company, Inc., of Cranford, NJ; (5) Carter-Wallace, Inc., of Cranford, NJ; (6) Knouse Foods of Peach Glen, PA; (7) White Drug Enterprises, Inc., of Jamestown, ND; (8) Jovan, Inc., of Bensenville, IL; (9) Helene Curtis Industries, Inc., of Chicago, IL; (10)

PATCO Products of Kansas City, MO; and (11) Abbott Laboratories of North Chicago, IL. Applicant's representative: Daniel J. Sweeney, Attorney, 1750 Pennsylvania Avenue NW., Suite 1105, Washington, DC 20006, (202) 393-5710. TA lease is not sought. Transferee is not a carrier.

MC-FC-79689. By decision of 3/29/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to LIVERY LIMITED, of Davis Rd., Old Lyme, CT, of Certificate No. MC-124138 and Sub 2), issued to OLD LYME-SAYBROOK TAXI SERVICE, INC., of Huntley Rd., Old Lyme, CT, authorizing: passengers and their baggage, in special operations, between Old Lyme, Lyme, Waterford, East Lyme, Colchester, Stovington, Ledyard, Montville, and Griswold, CT, on the one hand, and, on the other, points in the New York, NY Commercial Zone (the "exempt zone"), and the Newark, NJ Airport, subject to 9 passenger limitations to all points except Colchester which is to passengers in any one vehicle. TA lease is not sought. Transferee is not a carrier.

MC-FC-79690. By decision of 3/29/82, issued under 49 U.S.C. 10926 and the transfer rules to 49 C.F.R. 1132, Review Board Number 3 approved the transfer to EULA FAE CHABOT d.b.a. ALCO MOVING & STORAGE CO. of Certificate No. MC-138811 issued to NICHOLAS I. RUIZ AND EDYTHE M. RUIZ, A PARTNERSHIP, d.b.a. ARLINGTON PACKAGING AND MOVING COMPANY authorizing the transportation of *used household goods*, between points in Riverside, San Bernardino, Orange, Los Angeles, San Diego, and Imperial Counties, CA, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pick-up and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic. Transferee is a non-carrier.

MC-FC-79696. By decision of 3/29/82, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to APOLLO BUS LINES, INC. of Certificate No. MC-95751 issued to COMMONWEALTH CREWS SERVICE, INC. authorizing: operations as a common carrier, over irregular routes, transporting passengers and their baggage, restricted to traffic originating at the points indicated, in round-trip charter operations, from New York, NY, to points in NJ, and those in Orange and

Rockland Counties, NY. Applicant's representative: Sidney J. Leskin, 3 East 54th St., New York, NY 10022. TA lease is not sought. Transferee is not a carrier.

MC-FC-79703. By decision of March 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to P. M. SMITH CARTAGE, INC., of Milwaukee, WI, of Permit No. MC-123765 (Sub-No. 15), issued to BARRY TRANSFER & STORAGE CO., INC., of Milwaukee, WI, which authorizes the transportation, as a contract carrier, of *empty beverage containers*, between points in the United States, under continuing contract(s) with Jos. Schlitz Brewing Company, of Milwaukee, WI. Representative: Joseph P. Duffey, 111 East Wisconsin Avenue, Milwaukee, WI 53202.

Notes.—TA has not been filed. Transferee is not a carrier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9577 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 L.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any

application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: April 5, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC-F-14819, filed March 10, 1982. COLONIAL TRAILWAYS (Colonial) (400 S. Royal St., Mobile, AL, 36601)—PURCHASE (PORTION)—TRAILWAYS SOUTHERN LINES, INC. (Trailways) (1500 Jackson St., Dallas, TX 75201). Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. Colonial seeks to

purchase a portion of the interstate operating rights and property of Trailways. Mary C. Montgomery, Ann C. Batty, and Ruth C. Baker who together control 64.6% of Colonial through stock ownership, seek authority to acquire control of said rights and property through this transaction. Colonial is purchasing that part of Trailways' operating rights in MC-29957, which authorize the transportation of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over regular routes, (1) between Magee, MS, and Mobile, AL, and (2) between Mize, MS, and Brandon, MS. Colonial is authorized to operate as a motor common carrier pursuant to certificates issued in MC-67308 and sub-numbers thereunder. Colonial is commonly controlled with Capital Motor Lines, Inc. d/b/a Capital Trailways, a motor common carrier pursuant to certificates issued in MC-2908 and sub-numbers thereunder.

Note.—An application for temporary authority has been filed.

MC-F-14812, filed February 26, 1982. (Supplemental Publication). RETNAR ENTERPRISES, INCORPORATED (Retnar) (5501 West 79th Street, Burbank, IL 60459)—RED ARROW SECURITIES CORPORATION (Red Arrow) (3901 Seguin Road, San Antonio, TX 78297). Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. The purpose of this supplemental publication is to include the following note:

Note.—A directly related application has been filed in FD-29876, Rentar Industries, Inc.—Issuance of Securities. Rentar seeks authority to execute an indemnity agreement with Wells Fargo Business Credit in an amount not to exceed \$1,900,000.

MC-F-14824, filed March 16, 1982. LADLIE TRANSPORTATION, INC. (Ladlie) (103 East Main Street, Albert Lea, MN)—Purchase (Portion)—TFS, Inc. (TFS) (South Highway 281, P.O. Box 126, Grand Island, NE). Representatives: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Ladlie, a motor carrier operating pursuant to Certificate No. MC-146758 and sub-numbers thereunder seeks to purchase a portion of the operating authorities of TFS, and Phillip Ladlie and Walter Trow, also of Albert Lea, who control Ladlie through stock ownership, seek to acquire control of the operating authority through the transaction.

TFS proposes to sell to Ladlie operating rights authority transportation (1) in certificate No. MC-145743 (Sub-No. 11), of canned and in bottled foods to TFS (except frozen) from the facilities of Borce Foods Corporation of Cade and Lozes, LA to points in TX, KS, CO, OK,

MO, NE, and IA and (2) in certificate No. MC-141575 (Sub-No. 23), of canned goods from the plantsite of Borce Foods, Inc. at Wilson, NC to Cade, LA and points in CA, AZ, CO, ID, NV, OR, UT, TX and WA.

Note.—Applicants have not filed an application for temporary authority.

MC-F-14726, filed March 19, 1982. Applicant: ARIES TRANSPORTATION SYSTEM, INC. Rural Route 1, Spring Valley, IL 61362. ORBIT TRANSPORT, INC., P.O. Box 1109, La Salle, IL 61301. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001, (202) 628-9243. Aries Transportation System, Inc., an applicant for motor carrier operating authority in MC-155738 and subs, seeks approval to continue in control of Orbit Transport, Inc., a motor carrier holding authority in No. MC-136161 and subs, upon the institution by lines of operations as a common carrier. Barry W. Welbers joins in the application as owner of the stock of Aries Transportation System, Inc., and as President of Orbit Transport, Inc.

MC-F-14820, filed March 10, 1982. Applicant: CAPITAL MOTOR LINES, d.b.a. CAPITAL TRAILWAYS, 520 N. Court St., Montgomery, AL 36102—PURCHASE (PORTION)—TRAILWAYS TENNESSEE LINES, INC., 1500 Jackson St., Dallas, TX 75201. Representative: Lawrence E. Lindeman, P.C., 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441. Capital Motor Lines seeks authority to purchase that portion of the operating authority in No. MC-114271 and Alabama Certificate No. 275 which authorizes the transportation of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Gadsden, AL, and the junction of AL Hwy 9 and US Hwy 231 near Wetumpka: from Gadsden over US Hwy 431 to junction AL Hwy 21; then over AL Hwy 21 to junction US Hwy 231; then over US Hwy 231 to junction AL Hwy 9 and return over the same route. By the same application, the Trust of Avery A. Crow, which controls Capital, seeks authority to control the operating rights through the transaction.

Note.—(1) Application for TA has been filed. (2) A directly-related application has been filed by Capital in No. MC-2908 (Sub-No. 30), which is published in another section of the Federal Register.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special

Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application or to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or

the application of a noncomplying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: April 5, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC-2908 (Sub-30) filed: March 10, 1982. Applicant: CAPITAL MOTOR LINES, INC., d.b.a. CAPITAL TRAILWAYS, 520 N. Court St., Montgomery, AL 36102. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441. Transporting, *passengers and their baggage, and express and newspapers in the same vehicle with passengers*, between the junction AL Hwy 9 and US Hwy 231 and Montgomery, AL, over US Hwy 231, and *passengers and their baggage*, in charter and special operations, beginning and/or ending at points on the above-described regular route, and the area served by this route, and extending to points in the US (except HI). The purpose of this application is to extend applicant's authority at Montgomery to join with authority sought to be purchased in a directly-related proceeding, No. MC-F-14820, published elsewhere in the Federal Register, in order to permit applicant to provide service between Gadsden and Montgomery, AL.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9574 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388]

State Intrastate Rail Rate Authority— P.L. 96-448

AGENCY: Interstate Commerce Commission.

ACTION: Extension of filing date.

SUMMARY: The Commission is extending for 120 days the time for States to file standards and procedures under 49 U.S.C. 11501. It is also denying a request for public conference.

DATES: States must file their standards and procedures on or before August 8, 1982. Railroads and other interested persons may file comments on or before September 8, 1982.

FOR FURTHER INFORMATION CONTACT:
Jane Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION:

1. Request for Extension of Time

In our decision served February 8,

1982 [47 FR 5786, February 8, 1982] we provisionally certified 36 States, including Florida and Oklahoma, as having standards and procedures that permit them to exercise jurisdiction over intrastate rail transportation. The States will automatically lose their provisional certification on April 8, 1982 unless, by that time, they file revised standards and procedures.

The National Association of Regulatory Utility Commissioners (NARUC) and several States acting individually petitioned for extensions of time for the States to file their revised standards and procedures. Florida points out that its legislature has not yet completed work on legislation authorizing its Public Service Commission to promulgate standards and procedures which conform to the Staggers Act. However, once the authorizing legislation has been passed, it will take Florida 90 to 120 days to complete the necessary rulemakings and submit its standards and procedures. It suggests that it would be administratively inefficient to decertify a State and transfer its regulation to the Commission only to have the State seek recertification a few months later. The other States are in much the same position as Florida and ask for extensions of between 90 and 120 days.

NARUC also asks for an extension of 90 days. It says that many of the States cannot amend their standards and procedures on less than 90 or 120 days notice. NARUC represents that the State Commissions expect to either resubmit their standards and procedures or forego regulation by July, 1982.

The Family Lines Rail System (Family Lines) has replied to Florida's motion for extension of time. It argues that the States have had ample opportunity to file proper standards and procedures and that granting the extension would serve no purpose other than delay. Family Lines overlooks the complexity of the Staggers Act and the diligent attempts of many of the States to comply with it despite legislative difficulties and heavy workloads.¹

As was stated in our last decision, the Commission is confident that those States which desire to be certified will soon perfect that status. Administrative confusion could well result from the automatic transfer of jurisdiction to the Commission for the short time it will

¹ Family Lines also argues that Florida has neither the intention nor the capacity to comply with the Staggers Act. This argument is premature. We will not prejudice Florida's submission.

take the States to be permanently certified. Accordingly, the request for an extension of time to file revised standards and procedures will be granted. A 120-day extension should provide the States sufficient time to file considered and adequate standards and procedures.

2. The Request for Public Conference

NARUC and the States of Oklahoma and West Virginia request that the Commission convene a public conference so that the Commission and its staff can work directly with each State on an individual basis to ensure that the standards and procedures filed by each State will be acceptable to the Commission.

The Commission has previously indicated its desire to furnish the States as much guidance as possible in this area. A public conference would not be conducive to this purpose as it could not address adequately varied and individual concerns of each State. Our Office of Governmental Affairs remains available for furnishing advice to each State. Additionally, Commission staff will explore other avenues through which the level of assistance to the States could be broadened. It should be emphasized, however, that while staff guidance is offered in a spirit of cooperation, the Commission's ultimate determination must in each instance rest on the merits of the individual filings.

Decided: April 2, 1982.

By the Commission, Reese H. Taylor, Jr.,
Chairman.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9576 Filed 4-8-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercompany Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercompany hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Berkey Photo, Inc., One Water Street, White Plains, New York 10601.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

- (i) Berkey Film Processing, Florida, Inc.; New York.
- (ii) Berkey Film Processing of Pennsylvania, Inc.; Pennsylvania.
- (iii) Berkey Film Processing, San Francisco, Inc.; California.

(iv) Berkey Photo Service, Washington, D.C., Inc.; Maryland.

(v) Direct Photo Corporation; New York.

(vi) Kelly Film Express, Inc.; New York.

1. Parent corporation and address of principal office: Chaparral Steel Company, P.O. Box 1100, Midlothian, Texas 76065.

2. The wholly-owned subsidiary which will participate in the operations, and address of its principal office: Tex-Ark Joist Company, P.O. Box TAJ, Hope, Arkansas 71801.

1. Parent corporation and address of principal office: Katy Industries, Inc., 853 Dundee Avenue, Elgin, Illinois 60120.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation: Bee Gee Shrimp, Inc., a Delaware corporation, Glit, Inc., a New York corporation, Mariner Distributors, Inc., and Sahlman Seafoods, Inc., Florida corporations, all four of which are qualified to do business in Florida.

1. Parent corporation and address of principal office: Kawasaki Motors Corp. U.S.A., 2009 E. Edinger Avenue, Santa Ana, California 92711.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Kawasaki Motor Manufacturing, 6600 N.W. 27th Street, Lincoln, Nebraska 68524.

(b) Kawasaki Motors Corp., U.S.A., 5080 36th Street, S.E., Grand Rapids, Michigan 49508.

(c) Kawasaki Motors Corp., U.S.A., 3400 E. Randol Mill Road, Arlington, Texas 76011.

(d) Kawasaki Motors Corp., U.S.A., 434 Raritan Center, Industrial Park, Edison, New Jersey 08817.

(e) Kawasaki Motors Corp., U.S.A., Georgia Port Authority, Terminal Warehouse 25, U.S. Highway, 17N, Garden City, Georgia 30378.

(f) Kawasaki Motors Corp., U.S.A., 1062 McGaw Avenue, Santa Ana, California 92711.

(g) Kawasaki Motors Corp., U.S.A., 6110 Boat Rock Boulevard, SW., Atlanta, Georgia 30336.

1. The parent corporation is RKO General, Inc., a Delaware corporation with its principal office at 1440 Broadway, New York, New York 10018.

2. Subsidiaries in which RKO General, Inc. owns directly or indirectly a 100 percent interest that will participate in the operations and their respective states of incorporation are as follows:

(a) Cardinal Bottling Company, Inc., Indiana.

(b) The Consolidated Bottling Company, Ohio.

(c) Pepsi-Cola Bottling Co. of Brookville, Inc., Indiana.

(d) RKO Bottlers, Inc., Delaware.

(e) RKO Bottlers of Bryan, Inc., Delaware.

(f) RKO Bottlers of Fort Wayne, Inc., Delaware.

(g) RKO Bottlers of Lima, Inc., Delaware.

(h) RKO Bottlers of Muncie, Inc., Delaware.

(i) RKO Bottlers of Toledo, Inc., Delaware.

1. Parent corporation and address of principal office: Timbco Hydraulics, Inc., 1013 So. Lincoln St., Shawano, WI 54166.

2. Wholly-owned subsidiary which will participate in the operations, and State of Incorporation: Northwest Forest Products, Inc., 1013 So. Lincoln Street, Shawano, WI 54166, State of Wisconsin.

1. Parent corporation and address of principal office: Vulcan, Inc., Avenue E, Latrobe, PA 15650.

2. Wholly-owned subsidiaries which will participate in the operations and addresses of their respective principal offices:

(a) Shepard Niles Crane & Hoist Corporation, Montour Falls, NY.

(b) Shepard Niles Crane & Hoist Corporation, McKinney, TX.

(c) Chemung Foundry Corporation, Elmira, NY.

(d) Parnell Precision Products, Inc., Mercersburg, PA.

(e) Bedford Crane Company, Bedford, IN.

(f) Indiana Steel & Engineering Company, Bedford, IN.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9571 Filed 4-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 246]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: April 2, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority*.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.
Agatha L. Mergenovich,
Secretary.

MC 434 (Sub-9)X, filed March 18, 1982. Applicant: REMY MOVING & STORAGE CORP., Old Post Road, Walpole, MA 02081. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036. Subs 7, 8; broaden from household goods to "household goods and furniture and fixtures."

MC 2934 (Sub-116)X, filed March 22, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Sub 88F certificate: broaden to radial authority, between Chicago, IL, Springfield, MO, Watsontown, PA, Benton Harbor, MI, McAllen, TX, Paris, IL, and Evansville, IN, on the one hand, and, on the other, points in the United States.

MC 28307 (Sub-33)X, filed March 24, 1982. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, Post Office Box 21098, Charlotte, NC 28206. Representative: Charlie F. Finley, Post Office Box 21098, Charlotte, NC 28206. Sub 28F, broaden to replace

named facilities at Kingsport with Sullivan County, TN, as off route point in connection with otherwise authorized regular route general commodity operations.

MC 104683 (Sub-55)X, filed March 23, 1982. Applicant: TRANSPORT, INC., P.O. Box 1524, Hattiesburg, MS 39401. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Subs 38, 44, 46F, 48F, and 52: (1) broaden (all in bulk) liquid sulfur, Sub 38, fuel oils, Sub 44, liquified petroleum gas in Sub 46F, petroleum and liquid petroleum products, Sub 48F, and petroleum and petroleum products, Sub 52 to "commodities in bulk"; (2) remove facility restrictions and expand cities to county-wide authority: (a) Mobile, AL (Mobile County), Sub 44; (b) Baton Rouge, LA (Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes), Sub 48F; (c) Vicksburg, MS (Warren County), Sub 44; (d) Greenville, MS (Washington County), Subs 44 and 46F; (e) Hattiesburg, MS (Forrest and Lamar Counties), Pascagoula, MS (Jackson County), Petal, MS (Forrest County), Purvis, MS (Lamar County), Columbus, MS (Lowndes County), and Bay Springs, MS (Jasper County); Sub 46F; (3) change one-way to radial authority, Subs 38, 44, 46F, and 48F; and (4) remove in tank vehicles restrictions, Subs 38, 44, 46F, 48F, and 52.

MC 113271 (Sub-87)X, filed March 3, 1982. Applicant: TRANSSYSTEMS INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Kenneth G. Thomas (same address as applicant). Lead and Subs 8, 9, 10, 11, 14, 15, 16, 17, 19, 21, 24, 28, 31, 32, 35, 36, 38, 41, 43, 45F, 49F, 50F, 51F, 56F, 59F, 60F, 63F, 65F, 66F, 68F, 71F, 73F, 74F, 75F, 76F, 77 and 78. Broaden to: "Chemicals and related products" from acids and chemicals (lead), muriatic acid (Sub 8), anhydrous ammonia (Sub 9), limestone products (Sub 14), lime and limestone products (except cement), (Sub 15, 16, 17, 43, 66, and 73), sodium sulphate (Sub 19), industrial lime (Sub 28), fertilizer (Sub 32), acid (Sub 38), concentrated herbicides (Sub 41), sulphuric acid (Sub 45), agricultural chemicals (Sub 50), acids, chemicals, (Sub 63), sulphuric acid (Sub 65), salt (Sub 68), chemicals (except fertilizer) (Sub 78), methanol, glycol and anti-freeze (Sub 78 (5)); "building materials" from cement (Subs 10, 11 and 31), solar panels, (Sub 71); "commodities in bulk" from: bentonite clay, in bulk, (Sub 76F), coal, in bulk (Subs 35, 36, 49F) ores and ore concentrates, in bulk (Sub 78 (3)), and salt cake, soda ash, hydrated lime, pebble lime, and borax, in bulk (Sub 21); "lumber and wood products and

commodities used in the manufacture of those commodities" from part (1), lumber and lumber products and (2) commodities used in the manufacture of lumber and lumber products (Sub 59F); "food and related products" from beverages, in containers (Sub 60F), alcoholic beverages in bulk, (Sub 78 (1)); distillers' dried grain, (Sub 78 (4)); "pulp, paper and related products" from fiberboard (Sub 74F); "machinery" from part (1), chisel plows, (Sub 75F); "petroleum, natural gas and their products" from petroleum and petroleum products, (Sub 77), "metal products" from zinc dross (Sub 51); "ores and minerals" from metal concentrates and metal residues in containers (Sub 63); all but Subs 11, 21, 24, 28, 35, 36, 49, 71 and 75, to radial service; broaden facilities: Henderson to Clark County, NV (Sub 8); Montana City to Jefferson, Lewis and Clark Counties, MT, (Sub 10); Baker to Baker County, OR (Sub 28); Trident to Gallatin County, MT (Sub 31); Wellpinit to Stevens County, WA (Sub 43); Great Falls to Cascade County, MT (Sub 50F); East Helena to Jefferson, Lewis and Clark Counties, MT; Bonner, Darby, Missoula and Silver City to Missoula, Ravalli, Lewis and Clark Counties, MT (Sub 59F); Williston to Williams County, ND (Sub 68F); remove: prior or subsequent movement by rail restrictions in Subs 11, 36, 45, and 73F; special equipment, in bulk, bags/sacks restrictions in lead and Subs 8, 9, 14, 16, 17, 19, 24, 32, 38, 41, 43, 45F, 65F, 66F, 77, (78 (1), 78 (2) and 78 (5)); remove restrictions limiting transportation to traffic originating at Canadian points in Subs 19, 32 and 43; broaden parts of entry on the US-Canada boundary line as follows: in Sub 16, at or near Roosville, MT to ports of entry in MT; in Sub 43, Oroville, Lurier and Nelway, WA, to ports of entry in WA; and in Sub 51, Sweetgrass, MT to ports of entry in MT.

MC 117478 (Sub-5)X, filed March 3, 1982. Applicant: SPERRY TRANSPORTATION CO., 907 F St., Charles City, IA 50616. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312. Subs 3 and 4, broaden (1) tractors and tractor parts to "machinery", Sub 3, and castings to "metal products", Sub 4; (2) remove plantsite restrictions, and broaden Charles City, IA to Floyd County, Subs 3 and 4; (3) to radial authority, Sub 4; and (4) remove "originating at/destined to" restriction, Subs 3 and 4.

MC 119827 (Sub-11)X, filed March 8, 1982. Applicant: REGENCY AIR FREIGHT, INC., 26600 Van Born Road, Dearborn Heights, MI. Representative:

Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. MC-150157 Sub 4 (acquired in MC-FC-79269), (A) broaden in part to "general commodities (except classes A and B explosives)" from general commodities (with exceptions); (B) change: Willow Run Airport, MI, Detroit Metropolitan, Ypsilanti, MI, etc. to Wayne and Washtenaw Counties, MI; Toledo to Lucas County, OH; points in Macomb County, MI within the Detroit, MI commercial zone to Macomb County, MI; points in Lapeer County, MI on and south of MI Hwy 21, etc. to Lapeer County, MI; points in St. Clair County on and south of MI Hwy 21, etc. to St. Clair County, MI; (C) remove: ex-air restriction; restriction against service to eight named points in Oakland County, MI, and against two named points in Washtenaw County, MI.

Note.—Part of Sub-No. 4 authority is unrestricted general commodity authority.

MC 125091 (Sub-8)X, filed March 5, 1982. Applicant: BOEHMER TRANSPORTATION CORP., Mill and Union Sts., Machais, NY 14101. Representative: Kenneth T. Johnson and Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701. Lead and Sub-Nos. 2, 3, 4, 5, 6, and 11 (1) broaden the commodity descriptions from such bulk commodities as are transported in dump trucks in the lead: from sand and gravel in dump vehicles, in Subs 2, 5 and 6; from sand with loam in Sub 3, from slag in dump trucks, in Subs 3 and 6, and salt, in bulk, in Subs 4 and 11 to "commodities in bulk (except petroleum and petroleum products)"; (2) Subs 4 and 5, delete plantsite restrictions; (3) broaden (a) between points in Pennsylvania and New York within 50 miles of Olean, NY, including Olean to "between points in Chautauqua, Cattaraugus, Allegany, Steuben, Erie, Livingston Counties, NY, and Warren, McKean, Potter, Tioga, Forest, Elk, Cameron Counties, PA" in lead, (b) Town of Machais, Cattaraugus County, NY to "Cattaraugus County, NY" in Sub 2, (c) Town of Eldred (McKean County), PA to "McKean County, PA"; Lackawanna, NY to "Erie County, NY"; and Bradford Township (McKean County), PA to "McKean County, PA" in Sub 3, (d) Milo, NY to "Yates County, NY" in Sub 4, (e) Freedom and Yorkshire (Cattaraugus County), NY to "Cattaraugus County, NY" and facilities at or near Alfred Station, NY, (Allegany County) to "Allegany County, NY" in Sub 5, (f) Machais (Cattaraugus County), NY to "Cattaraugus County, NY" in Sub 6, (g) facilities at or near Buffalo, NY to "Erie County, NY" in Sub 11; and (4) to

radial authority in Subs 2, 3, 4, 5, 6 and 11.

MC 138388 (Sub-13)X, filed February 22, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. Subs 2, 6F, 8F, 10F, and 11: (1) broaden (a) feed and feed ingredients and feed supplements, animal and poultry medications and feeding devices, when transport in mixed loads with commodities named to "pet food and chemicals and related products", Sub 2; (b) dry feed and feed concentrates (Sub 2) and animal feeds and ingredients (Sub 8F) to "chemicals and related products"; and (c) cheese and cheese products, synthetic cheese and synthetic cheese products (Sub 10F) and cheese and cheese products, and artificial cheese and artificial cheese products (Sub 11F) to "foodstuffs"; (2) remove except chemicals and commodities in bulk, Sub 2; (3) eliminate facilities limitations, Sub 2; (4) remove the restriction against traffic moving from points in MN to Abbotsford, WI, Sub 8F; (5) change one-way to radial authority, Sub 2; and (6) change cities to counties: Thiensville, WI (Ozaukee and Milwaukee Counties), and Fond du Lac, WI (Fond du Lac County), Sub 2; Van Wert, OH (Van Wert County), Warsaw, IN (Kosciusko County), and Rochester, MN (Olmsted County), Sub 8F; Abbotsford, WI (Clark and Marathon Counties) and New Holstein, WI (Calumet County), Sub 8F; and Van Wert, OH (Van Wert County), Sub 10F.

MC 143077 (Sub-6)X, filed March 29, 1982. Applicant: GERARD S. REDER, d.b.a. BERKSHIRE ARMORED CAR SERVICE COMPANY, 343 Pecks Road, Pittsfield, MA 01201. Representative: James M. Burns, Suite 413, 1383 Main Street, Springfield, MA 01103. (Sub 5)X permit, broaden to between points in the U.S. under continuing contract(s) with banks or banking institutions.

[FR Doc. 82-9569 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under

49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-56

Decided: March 24, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 151621 (Sub-3), filed March 16, 1982. Applicant: BUCKLEY O. CARPENTER & THOMAS C. CARPENTER, d.b.a. B. CARPENTER & SON, 368 Webb Circle, Monroe, CT 06468. Representative: Buckley O. Carpenter (same address as applicant), (203) 261-0024. As a broker of general commodities (except household goods), between points in the U.S. (except AK and HI).

MC 161050, filed March 16, 1982. Applicant: JOHNSON TRUCK BROKERAGE, INC., P.O. Box 7387, High Point, NC 27264. Representative: Lawrence Marquette, P.O. Box 629, Carmel Valley, CA 93924 (408)-625-2031. (1) As a broker of general commodities (except household goods), between points in the U.S. (except AK and HI); (2) transporting for or on behalf of the U.S. Government general commodities (other than used household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S. (except AK and HI) and; (3) transporting food and edible products and by-products intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizer, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161061, filed March 17, 1982. Applicant: R.T.R. INC., P.O. Box 227, Malott, WA 98829-227. Representative: Henry C. Winters, 12600 S.E. 38th St., Suite 200, Bellevue, WA 98006 (206) 644-2100. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161081, filed March 17, 1982. Applicant: ALLIED EXPRESS, 117 Forest Hill Drive, Los Gatos, CA 95030. Representative: Owen B. Katzman 1828 L St., N.W. Suite 1111 Washington, DC 20036 (202) 822-8200 As a broker of general commodities (except household

goods), between points in the U.S. (except AK and HI).

MC 161100, filed March 19, 1982. Applicant: GEORGE WINSLOW, 3770 Sandpiper, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701 (208) 343-3071. As a broker of general commodities (except used household goods), between points in the U.S.

Volume No. OP1-58

Decided: March 30, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 145770 (Sub-2), filed March 25, 1982. Applicant: KEITH JUSTICE, d.b.a. JUSTICE TRUCKING, 128 Hillside Drive Minden, IA 51553. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114 (404) 397-7033. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161101, filed March 19, 1982. Applicant: STEVE KURCHAK & MIKE KURCHAK, d.b.a. M & S TRUCKING, P.O. Box 3006, Montrose, MI 48457. Representative: Greg Geers, Michigan Agricultural Commodities, Inc., 3350 N. Grand River Avenue, Lansing, MI 48906, (517) 321-7610. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161111, filed March 19, 1982. Applicant: PETER M. BRUNO, 24 Nancy Drive, Havertown, PA 19083. Representative: Peter M. Bruno (same address as applicant), (215) 449-9294. As a broker of general commodities (except household goods), between points in the U.S. (except AK and HI).

MC 161131, filed March 22, 1982. Applicant: LENARD D. HESS, d.b.a. HESS INTERNATIONAL TRUCKING, INC., 14542 Drexel Street, Omaha, NE 68137. Representative: Lenard D. Hess (same address as applicant), (402) 895-1608. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161161, filed March 23, 1982.

Applicant: J & K TRUCKING, 11026 S.E. 186th Place, Renton, WA 98055. Representative: James M. Wilson (same address as applicant), (206) 271-3032. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners, by the owner of the vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161200, filed March 25, 1982. Applicant: THOMAS N. STOKES, 4 Founders Rd., Shrewsbury, MA 01545. Representative: David M. Marshall, 101 State St., Springfield, MA 01103, (413) 732-1136. As a broker of general commodities (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2-64

Decided: March 30, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 155532 (Sub-1), filed March 16, 1982. Applicant: WESTERN STATES TRANSPORTATION SERVICES, INC., 6029 Capitol Blvd., Tumwater, WA 98501. Representative: Wayne Allan White, Sr., 5225-80th Ave. SW, Olympia, WA 98502, 206-754-6666. Transporting, for or on behalf of the United States Government, general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (including AK, but excluding HI).

MC 160843, filed March 3, 1982. Applicant: BAILEY & WILLIAMS, INC., 2500 Common Lane, Chesapeake, VA 23324. Representative: Blair P. Wakefield, Suite 1001 First and Merchants, National Bank Bldg., Norfolk, VA 23510, 804-627-0070. As a broker of general commodities (except household goods), between points in the U.S. (except AK and HI).

MC 160882, filed March 8, 1982. Applicant: SILVER ARROW EXPRESS, INC., 2131 Old Oakland Rd., San Jose, CA 95131. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805-872-1106. Transporting, for or on behalf of the United States Government, general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 160922, filed March 9, 1982. Applicant: NORMAN'S TRUCK

BROKERAGE, INC., Blue Star Highway, Douglas, MI 49406. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI 49423, 616-399-3400. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 160933, filed March 8, 1982. Applicant: ANTHONY ZOLNER d.b.a. TITAN TRUCKING, P.O. Box 442, Tinley Park, IL 60477. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612-927-8855. As a *broker of general commodities* (except household goods), between points in the U.S. (including AK but excluding HI).

MC 160943, filed March 10, 1982. Applicant: WILLIAM L. CHASE, d.b.a. TILICUM TRANSPORTATION, INC., 11580 S. W. 72nd Ave., Tigard, OR 97223. Representative: William L. Chase (same as applicant), (503) 639-7582. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 160963, filed March 9, 1982. Applicant: BAR-ZEL EXPEDITERS, INC., 7 Dey St., New York, NY 10007. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212-239-4610. (1) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161012, filed March 12, 1982. Applicant: E.D.D.E. TRUCKING CORP., 2676 Ray Place, N. Bellmore, NY 11710. Representative: Jack L. Schiller, 123-60 83rd Ave., New Gardens, NY 11415, (212) 263-2078. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2-67

Decided: March 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 141603 (Sub-8), filed February 24, 1982. Applicant: CANADIAN PACIFIC

EXPRESS & TRANSPORT, LTD., Suite E-330, Atria North, 2255 Sheppard Ave. East, Willowdale, Ontario, Canada M2J 4Y1. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St. NW., Washington, DC 20036, 202-783-8131. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 161032, filed March 16, 1982. Applicant: DELTA VAN & STORAGE, INC., 4604 Eisenhower Ave., Alexandria, Va 22304. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., suite 1200, Washington, DC 20036 202-785-0024. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Volume No. OP3-051

Decided: March 31, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Carleton not participating.)

MC 160935, filed March 9, 1982. Applicant: ALL-TRANS CORP., 61 Walnut Lane, Northford, CT 06472. Representative: Carol C. Murphy (same address as applicant), (203) 484-4044. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161085, filed March 18, 1982. Applicant: STEPHEN R. YOKOTA, d.b.a. YOKOTA INTERNATIONAL, 11062 S.E. 21st Ave., Portland, OR 97222. Representative: (Same as applicant), (503) 659-0852. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 161095, filed March 19, 1982. Applicant: R.L.C. BROKERAGE, 8972 Huff Rd. NE, Salem, OR 97305. Representative: Ralph W. Clark (same address as applicant), (503) 390-7840. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161145, filed March 22, 1982. Applicant: CLIFFORD E. ANDERSON, d.b.a. GENE ANDERSON TRUCKING, 2375 San Juan Road, P.O. Box 288,

Aromas, CA 95004. Representative: Clifford Eugene Anderson (same address as applicant), (408) 722-9397. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161185, filed March 23, 1982. Applicant: LARRY R. AND SUSAN K. NELSON, d.b.a. L. R. NELSON TRANSPORT, 101 N. 24th St., Denison, IA 51442. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3-054

Decided: April 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 147494 (Sub-12), filed March 26, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39201, (601) 355-3543. Transporting, for or on behalf of the U.S. Government, *general commodities*, (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 151374 (Sub-2), filed March 19, 1982. Applicant: CAL-CLEVE LIMITED, d.b.a. DOT-LINE TRANSPORTATION, 8023 E. Slauson Blvd., Montebello, CA 90640. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633, (714) 738-3889. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161205, filed March 25, 1982. Applicant: AIR SEA SHIPPING, INC., 1955 N.W. 72nd Ave., Miami, FL 33126. Representative: Emilio J. Ruiz (same address as applicant), (305) 592-5176. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 161214, filed March 25, 1982.
Applicant: CHIP TRUCKING, INC., 3337 Marietta Avenue, Mountville, PA 17554. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735-3090. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP4-119

Decided: April 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Carleton not participating.)

MC 161116, filed March 22, 1982.
Applicant: SOUTH TEXAS FARM FREIGHT LINE, INC., Box 678, Combes, TX 78535. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Ft. Worth, TX 76112, (817) 457-0804. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161186, filed March 24, 1982.
Applicant: YELLOW JACKET EXPRESS, INC., P.O. Box 42, Conway, PA 15027. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442-8330. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161216, filed March 25, 1982.
Applicant: RALPH E. WHEELER d.b.a. WHEELER'S TRUCK BROKERAGE, 154 State St., Presque Isle, ME 04769. Representative: Ralph E. Wheeler (same address as applicant), (207) 764-1306. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161226, filed March 26, 1982.
Applicant: TEX WILES HARRIS d.b.a. T. W. HARRIS TRUCKING, 19647 Nugget Pl., Bend, OR 97702. Representative: Tex Wiles Harris (same address as applicant), (503) 389-8743. Transporting *food and other edible products and*

byproducts intended for human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

Volume No. OP4-124

Decided: March 31, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 161207, filed March 25, 1982.
Applicant: ELWOOD LINK d.b.a. C & C TRANSFER CO., INC., 3984 State Hwy 97, Peshastin, WA 98847. Representative: Elwood Link (same address as applicant), (509) 548-7331. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9568 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-301N)]

Rail Carriers; Conrail Abandonment Between Amherst Switch and Amherst Quarry, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1, has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Amherst Switch and Amherst Quarry in the County of Lorain, OH, a total distance of 2.4 miles effective on March 11, 1982.

The net liquidation value of this line is \$86,804. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9578 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-153N)]

Rail Carriers; Conrail Abandonment Between Braintree Highlands and Randolph, MA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Braintree Highlands and Randolph in the County of Norfolk, MA, a total distance of 1.5 miles effective on March 11, 1982.

The net liquidation value of this line is \$133,264. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9560 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-284N)]

Rail Carriers; Conrail Abandonment Between Charlottesville and Indianapolis, IN; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Charlottesville and Indianapolis in the Counties of Hancock and Marion, IN, a total distance of 21.8 miles effective on March 11, 1982.

The net liquidation value of this line is \$1,428,016. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9606 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-271N)]

**Rail Carriers; Conrail Abandonment
Between Churchtown Road and Cedar
Lane, PA; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Churchtown Road and Cedar Lane in the County of Lancaster, PA, total distance of 4.7 miles effective on March 11, 1982.

The net liquidation value of this line is \$122,597. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9001 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-267N)]

**Rail Carriers; Conrail Abandonment
Between Depew and Cheektowaga,
NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Depew and Cheektowaga in the County of Erie, NY, a total distance of 2.8 miles effective on March 11, 1982.

The net liquidation value of this line is \$228,259. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9597 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-265N)]

**Rail Carriers; Conrail Abandonment
Between DL&W Connection and North
Tonawanda, NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between DL&W Connection and North Tonawanda in the County of Niagara, NY, a total distance of 5.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$973,609. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9595 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-175N)]

**Rail Carriers; Conrail Abandonment in
Cleveland, OH; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Bessemer Ave. and E. 65th Street in the County of Cuyahoga, OH, a total distance of 1.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$70,989. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9585 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-307N)]

**Rail Carriers; Conrail Abandonment
Between Duff and Washington, IN;
Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Duff and Washington in the County of Davies, IN, a total distance of 2.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$29,775. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9588 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-264N)]

**Rail Carriers; Conrail Abandonment
Between East Buffalo and the Buffalo
River, NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between East Buffalo and the Buffalo River in the County of Erie, NY, a total distance of 2.7 miles effective on March 11, 1982.

The net liquidation value of this line is \$370,908. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9594 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-166N)]**Rail Carriers; Conrail Abandonment Between East Buffalo and West Shore Bridge, NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between East Buffalo and West Shore Bridge in the County of Erie, NY, a total distance of 1.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$121,547. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-0562 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-282N)]**Rail Carriers; Conrail Abandonment Between Haines Jct. and Scranton, PA; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Haines Jct. and Scranton in the County of Lackawanna, PA, a total distance of 2.6 miles effective on March 11, 1982.

The net liquidation value of this line is \$89,206. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-0605 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-262N)]**Rail Carriers; Conrail Abandonment Between Indian Orchard and Ludlow, MA; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Indian Orchard and Ludlow in the County of Hampton, MA, a total distance of 0.9 mile effective on March 11, 1982.

The net liquidation value of this line is \$74,969. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-0592 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-269N)]**Rail Carriers; Conrail Abandonment in Falconer, NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 32.2 and milepost 33.1 in Falconer in the County of Chautauqua, NY, a total distance of 0.9 miles effective on March 11, 1982.

The net liquidation value of this line is \$48,674. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-0599 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-304N)]**Rail Carriers; Conrail Abandonment Between Hopedale and Piney Fork, OH; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Hopedale and Piney Fork in the County of Jefferson, OH, a total distance of 5.1 miles effective on March 11, 1982.

The net liquidation value of this line is \$164,061. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-0586 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-263N)]**Rail Carriers; Conrail Abandonment Between Ithaca and Morris Chain, NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Ithaca and Morris Chain in the County of Tompkins, NY, a total distance of 1.5 miles effective on March 11, 1982.

The net liquidation value of this line is \$44,612. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-0593 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-291N)]

Rail Carriers; Conrail Abandonment Between Jct Mill Ind Tr and End of Track; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Jct Mill Ind. Tr. and End of Track in the County of Clearfield, PA, a total distance of 0.5 mile effective on March 11, 1982.

The net liquidation value of this line is \$7,509. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9606 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-311N)]

Rail Carriers; Conrail Abandonment Between Malone and the Canadian Border in NY; Notice of Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Malone and the Canadian Border in the County of Franklin, NY, a total distance of 10.25 miles effective on March 11, 1982.

The net liquidation value of this line is \$396,801. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9591 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-290N)]

Rail Carriers; Conrail Abandonment Between Manver and Heilwood, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1, has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Manver and Heilwood in the County of Indiana, PA, a total distance of 7.2 miles effective on March 11, 1982.

The net liquidation value of this line is \$143,596. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9607 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-308N)]

Rail Carriers; Conrail Abandonment Between Lapel and Westfield, IN; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Lapel and Westfield in the County of Hamilton, IN, a total distance of 15.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$203,741. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9589 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-302N)]

Rail Carriers; Conrail Abandonment Between Mantua and Leavittsburg, OH; Notice of Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Mantua and Leavittsburg in the Counties of Portage and Trumbull, OH, a total distance of 22.0 miles effective on March 11, 1982.

The net liquidation value of this line is \$1,195,575. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9579 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-158N)]

Rail Carriers; Conrail Abandonment Between Musconetcong Bridge and Hughesville, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Musconetcong Bridge and Hughesville in the County of Warren, NJ, a total distance of 3.2 miles effective on March 11, 1982.

The net liquidation value of this line is \$87,833. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9581 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-279N)]**Rail Carriers; Conrail Abandonment Between Newark Center and End of Track, DE; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Newark Center and end of Track in the County of New Castle, DE, a total distance of 1.5 miles effective on March 11, 1982.

The net liquidation value of this line is \$549,390. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9604 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-278N)]**Rail Carriers; Conrail Abandonment Between Odenton and Ft. Meade, Md.; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Odenton and Ft. Meade in the County of Anne Arundel, MD, a total distance of 1.6 miles effective on March 11, 1982.

The net liquidation value of this line is \$109,429. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9603 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-268N)]**Rail Carriers; Conrail Abandonment Between Rochester Junction and Lima, NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3, has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Rochester Junction and Lima in the Counties of Monroe and Livingston, NY, a total distance of 6.0 miles effective on March 11, 1982.

The net liquidation value of this line is \$561,489. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9598 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-266N)]**Rail Carriers; Conrail Abandonment in North Tonawanda, NY; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 15.0 and milepost 16.3 in N. Tonawanda in the County of Niagara, NY, a total distance of 1.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$110,025. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9596 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-306N)]**Rail Carriers; Conrail Abandonment Between Ohio Junction and Peninsula IN OH and WV; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Ohio Junction and Peninsula in the Counties of Belmont and Ohio, OH, and WV, a total distance of 2.5 miles effective on March 11, 1982.

The net liquidation value of this line is \$86,902. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9587 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-292N)]**Rail Carriers; Conrail Abandonment Between Shanktown and End of Track in PA; Notice of Findings**

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Shanktown and End of Track in the County of Indiana, PA, a total distance of 0.9 mile effective on March 11, 1982.

The net liquidation value of this line is \$18,857. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9609 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-169N)]

Rail Carriers; Conrail Abandonment Between Spring Valley and Woodbine, NY; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Spring Valley and Woodbine in the County of Rockland, NY, a total distance of 0.8 miles effective on March 11, 1982.

The net liquidation value of this line is \$— 0 —. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9588 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-273N)]

Rail Carriers; Conrail Abandonment Between Williams & Clark and End of Track, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Williams & Clark and end of Track in the County of Middlesex, NJ, a total distance of 0.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$19,412. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9602 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-174)]

Rail Carriers; Conrail Abandonment in Youngstown, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 1.6 in Youngstown in the County of Mahoning, OH, a total distance of 1.6 miles effective on March 11, 1982.

The net liquidation value of this line is \$17,046. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9584 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-109)]

Rail Carriers; Consolidated Rail Corp., Exemption for Contract Tariff ICC-CR-C-0032

AGENCY: Interstate Commerce Commission.

ACTION: notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: Consolidated Rail Corp. (CR) filed a petition on March 26, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit an amendment dated March 15, 1982, to its contract ICC-CR-C-0032 to become effective on one day's notice. The contract was filed to become effective on 30 days' notice.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days'

[Docket No. AB-167 (Sub-270N)]

Rail Carriers; Conrail Abandonment Between Venango Street and Frankford Creek, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Venango Street and Frankford Creek in the County of Philadelphia, PA, a total distance of 2.1 miles effective on March 11, 1982.

The net liquidation value of this line is \$189,414. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9600 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-309N)]

Rail Carriers; Conrail Abandonment Between Winamac and Crown Point, IN; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Winamac and Crown Point in the Counties of Starke, LaPorter, Lake and Pulaski, IN, a total distance of 48.8 miles effective on March 11, 1982.

The net liquidation value of this line is \$3,024,982. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9590 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The contract involves the movement of copper smelter products originating in Arizona and El Paso, TX, to East St. Louis, IL, to various points east. The basic contract is for one year and provides the shipper with a reduced rate, providing the shipper tenders Conrail 95 percent of its traffic moving between the named origins and destinations. The amendment extends the origin territory to include Arizona and El Paso, TX. The effective date for this amendment must coincide with the effective date of a Southern Pacific contract. If the Conrail contract is not effective April 2, 1982, the shipper will not have a corresponding Conrail contract to ship beyond East St. Louis.

We find this to be the type of exceptional circumstance which warrants a provisional exemption. However, due to the late filing date by Conrail, the April 2nd date cannot be accommodated. As we have informally explained on many occasions, the normal time petitioners may anticipate decisions in these cases is 7-10 days from the filing date.

CR's contract amendment may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505.)

Dated: April 2, 1982.

By the Commission, Division 1,
Commissioners Sterrett, Taylor, and Andre.
Commissioner Andre did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9975 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-86)]

Rail Carriers; Illinois Central Gulf Railroad Company—Abandonment—in Jackson County, IL; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its rail line between milepost 1.31 at Carbon Lake and milepost 18.19 at Grand Tower, in Jackson County, IL, a distance of 16.88 miles, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9572 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29862]

Rail Carriers; Michigan Interstate Railway Company Stock Split—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts the stock split by the Michigan Interstate Railway Company from the requirements of prior approval under 49 U.S.C. 11301.

DATES: Exemption effective on May 10, 1982. Petitions to reopen must be filed by April 29, 1982.

ADDRESSES: Send Pleadings to:

- (1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423
- (2) Petitioner's Representative: Charles W. Chapman, 1627 K Street, NW, Ninth Floor, Washington, D.C. 20006. Pleadings should refer to F.D. 29862.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to the TSI Infosystems, Room 2227, Washington, D.C. 20423, or call toll free 800-424-5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9573 Filed 4-8-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 10 SDM]

Rail Carriers; Norfolk and Western Railway Co.; Amended System Diagram Map

Notice is hereby given pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Norfolk and Western Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 10 SDM. The Commission on March 31, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined

at the office of the Commission, Section of Dockets, by requesting docket No. AB 10 SDM.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9570 Filed 4-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-293N)]

Rail Carriers; Conrail Abandonment Between Dowler Junction and End of Track, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Dowler Junction and End of Track in the Counties of Indiana and Clearfield, PA, a total distance of 6.0 miles effective on March 11, 1982.

The net liquidation value of this line is \$47,269. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9610 Filed 4-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-294N)]

Rail Carriers; Conrail Abandonment in E. Brady, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 2.0 and milepost 3.2 in E. Brady in the county of Clarion, PA, a total distance of 1.2 miles effective on March 11, 1982.

The net liquidation value of this line is \$45,643. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable

division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9611 Filed 4-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-296N)]

Rail Carriers; Conrail Abandonment Between Florence Junction and Florence, Pa.; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Florence Junction and Florence in the County of Washington, PA, a total distance of 1.3 miles effective on March 11, 1982.

The net liquidation value of this line is \$88,261. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9612 Filed 4-8-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-300N)]

Rail Carriers; Conrail Abandonment in Tiffin, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 33.0 and milepost 33.8 in Tiffin in the County of Seneca, PA, a total distance of 0.8 mile effective on March 11, 1982.

The net liquidation value of this line is \$34,315. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-9613 Filed 4-8-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Massachusetts

This notice announces the beginning of new Extended Benefit Period in the State of Massachusetts, effective on March 28, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determinations of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on March 13, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on March 28, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on April 2, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-9662 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of the Virgin Islands

This notice announces the beginning of new Extended Benefit Period in the State of the Virgin Islands, effective on February 21, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation

laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the state unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determinations of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on February 6, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on February 21, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire

about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on April 2, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-9661 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-49; Exemption Application No. D-2540]

Exemption From the Prohibitions for Certain Transactions Involving the John F. Long Properties, Inc. Profit Sharing Plan and Trust Located in Phoenix, Arizona

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the exchange (the Exchange) of one parcel of agricultural property owned by the John F. Long Properties, Inc. Profit Sharing Plan and Trust (the Plan) for cash and four commercial rental properties owned by John F. Long Properties, Inc., the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 5, 1982, notice was published in the Federal Register (47 FR 5515) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the Exchange as described in an application filed on behalf of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The

notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed in accordance with the provisions set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975, and based upon the entire record, the Department makes the following determinations:

- (a) The exemption is administratively feasible;
- (b) It is in the interests of the Plan and of its participants and beneficiaries; and
- (c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the Exchange as described in the notice of proposed exemption, provided that the terms and conditions of the Exchange are at least as favorable as those which the Plan could obtain in a similar transaction with an unrelated third party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9660 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3008]

Proposed Exemption for Certain Transactions Involving the Carl J. Johnson, D.D.S., Split Funded Defined Benefit Pension Plan and Trust Located in San Francisco, California

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by the Carl J. Johnson,

D.D.S., Split Funded Defined Benefit Pension Plan (the Plan) of a limited partnership interest to Carl and Emma Johnson (the Plan Trustees), parties in interest with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, and the Plan Trustees.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-3008. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Alan H. Levitas of the Department, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. As of June 30, 1981, there were 4 Plan participants and the assets of the

Plan totaled approximately \$93,797. Carl J. Johnson is the sole stockholder of Carl J. Johnson, D.D.S., Inc., the Plan's sponsor.

2. In August, 1978, the Plan purchased a limited partnership interest in La Mariposa III (the Partnership), for \$11,000. The Partnership was formed for the purpose of acquiring and subdividing land in Arizona for the construction and sale of homes. After the Partnership was formed and the land purchased, the interest rates started climbing and the market for homes collapsed. The Partnership was unable to complete any units, other than its models, and work on the project has come to a standstill. No sales have been made by the Partnership.

3. The applicant represents that the prospects for the Plan recouping any part of its investment, much less earning a profit, are unlikely. In addition, foreclosure proceedings by secured creditors on real property owned by the Partnership have been threatened.

The Plan purchased its Partnership interest upon the urgings of Mr. Russell Dowd (Mr. Dowd), the ex-insurance agent for the Plan Trustees and a promoter of the Partnership. Litigation has been instituted by the law firm of Howard, Rice, Nemerovski, Canady & Pollak (the Firm) on behalf of the limited partners of the Partnership in an effort to recover their investment from the general partners. Mr. Dowd is a defendant in the current litigation.

4. Denis T. Rice (Mr. Rice) of the Firm in a letter dated February 2, 1982, to all the limited partners in the Partnership stated that for Federal and State tax purposes it would be appropriate to completely write off the Partnership interest as worthless in 1981. Mr. Rice's letter states that the complaints filed on behalf of the limited partners allege that the Partnership interests are worthless and the investments have thus been lost.

5. The applicant represents that the Partnership does not constitute a limited partnership under State law. This is because the general partners of the Partnership failed to comply with the statutory requirements for establishing a limited partnership since none of the documents relating to the formation of a limited partnership were completed or recorded. The applicant further represents that this failure to comply raises the possibility that the limited partners, including the Plan, may be treated as general partners exposing each partner to unlimited liability for the actions of the Partnership.

6. The Plan Trustees propose to buy the Partnership interest from the Plan for \$11,000 in cash and substitute themselves as partners in order to make

the Plan whole. In addition, the Plan Trustees agree to hold the Plan harmless from past and future losses arising from the ownership of the Partnership interest. The Plan Trustees as of December 31, 1981 have a net worth in excess of \$1 million.

7. The applicant represents that if the Partnership interest is allowed to remain in the Plan it will have difficulty in funding expected benefits since there is no market or other buyer for the Partnership interest. Also, the Plan will be able to reinvest the \$11,000 and will be protected from losses that might arise if the Plan is treated as a general partner.

8. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) It will be a one time transaction for cash;

(b) The Plan will be able to dispose of an otherwise worthless asset without suffering a loss; and

(c) The Plan Trustees will hold the Plan harmless from past and future losses arising from the Plan's owning an interest in the Partnership

Notice to Interested Persons

Within ten days after the notice of pendency is published in the *Federal Register*, notice will be given to all Plan participants and beneficiaries by mail. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the *Federal Register* and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the

employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of the Partnership interest by the Plan to the Plan Trustees for \$11,000, provided that this amount is not less than the fair market value at the time of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and

representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9653 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2732]

Proposed Exemption for Certain Transactions Involving the Consolidated Steel & Supply Co. Employee Retirement Income Savings and Stock Investment Plan Located in Elk Grove Village, Ill.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a parcel of real property (the Property) by the Consolidated Steel and Supply Co. Employee Retirement Income Savings and Stock Investment Plan (the Plan) to J and J Investment Company (J and J), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect J and J, the participants and beneficiaries of the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 25, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2732. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200

Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by J and J, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with six participants and total assets, as of September 30, 1980, of \$821,709. Consolidated Steel and Supply Company (the Employer) is the sponsor of the Plan. J and J is a general partnership in which Joseph L. Straus and James Cole are equal partners. Messrs. Straus and Cole together own 100% of the stock of the Employer and are the trustees (the Trustees) of the Plan.

2. On December 9, 1975, the Plan purchased the Property from an unrelated party for approximately \$81,000. The Property is an unimproved parcel of land located in an industrial park in Elk Grove, Illinois. The Trustees intended that the Property be held as an investment of the Plan until it substantially appreciated in value at which time it would be sold. Since the purchase by the Plan the Property has been vacant and non-income producing. The Property is not suitable for producing income unless improvements are made. Since its purchase, the Property has substantially appreciated but currently is declining in value. The

applicant represents that disposing of the Property would prevent a further decline in value and convert a non-income producing asset into cash which would provide funds for investing in more diversified, income producing assets.

3. J and J, therefore, is requesting an exemption to permit the sale of the Property by the Plan to J and J. J and J owns an adjacent parcel of real property to the Property and currently leases this adjacent parcel to the Employer. However, the applicant represents that the Property has never been used by the Employer. Subsequent to the sale of the Property, J and J contemplates leasing the Property to the Employer for certain parking and storage uses of the Employer. The sale of the Property would be for a cash sum of \$250,000. This price was determined to be the fair market value of the Property, as of November 26, 1980, by R. J. Schmitt & Associates (Schmitt), an independent real estate appraiser located in Prospect Heights, Illinois. Schmitt represents that the price of \$250,000 is the fair market value of the Property to J and J or any unrelated purchaser and that the Property has no unique value to J and J or the Employer by virtue of the proximity to the Property of the adjacent parcel of real estate owned by J and J. The Plan will pay no sales commissions or other fees and expenses with respect to the sale of the Property.

4. In summary, the applicant represents that the proposed sale of the Property meets the statutory criteria of section 408(a) of the Act because: (1) It is a one time transaction for cash; (2) the Plan will be able to divest itself of a non-income producing asset which has begun to decline in value; (3) the price of the Property was determined by an independent appraiser; (4) no sales commissions or fees of any kind will be charged to the Plan; and (5) the Plan will realize a substantial profit.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all participants and beneficiaries of the Plan within 14 days of the publication of the notice of pendency in the Federal Register. Notice will be provided by posting on bulletin boards which are regularly viewed by Plan participants and by first class mail. Notice will include a copy of the notice of pendency as it appears in the Federal Register as well as a statement informing all interested persons of their right to comment or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale of the Property by the Plan to J and J for the cash sum of \$250,000, provided that this amount is not less than the fair market value of the Property at the time of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of April 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9659 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2839]**Proposed Exemption for Certain Transactions Involving the Lincoln County National Bank Employee Pension Plan Located in Danville, Ky.**

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would retroactively exempt the sale on December 24, 1980 by the Lincoln County National Bank Employee Pension Plan (the Plan) of certain real estate notes and mortgages (the Mortgages) originated by the Plan to Lincoln County National Bank (the Employer), a party in interest with

respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 19, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective December 24, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2839. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Horace C. Green of the Department, telephone (202) 523-8196. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan that had 18 participants and total assets of \$307,986 as of December 31, 1980.

Investment decisions for the Plan are made by the Plan trustees (the Trustees), who are R. H. Halcomb and Evelyn S. Gander, both employees and officers of the Employer.

2. From 1977 through 1979, the Trustees invested \$287,000 of the assets of the Plan in the Mortgages. The Mortgages produced an average annual interest rate of 8.6% and represented approximately 89% of the assets of the Plan as of December 31, 1979.

3. In April of 1980, the Board of Directors of the Employer directed the Trustees to sell the Mortgages in the secondary market because the Mortgages were producing a low rate of return. However, all attempts to sell the Mortgages to unrelated parties in the secondary market were futile.

4. The Trustees, being unable to find a purchaser for the Mortgages, sold the Mortgages to the Employer on December 24, 1980 for a cash payment of \$249,338.49. This amount represented the outstanding principal balances of the Mortgages. The only expense the Plan paid related to the transaction was \$7.50, the transfer fee. Robinson, Hughes and Christopher, Certified Public Accountants of Danville, Kentucky, an unrelated party, has represented that the fair market value of the Mortgages on December 24, 1980 was \$188,434.89. The Trustees determined that the transaction was appropriate and was in the best interest of the Plan's participants and beneficiaries.

5. In summary, the applicant represents that the sale of the Mortgages met the statutory criteria of an exemption under section 408(a) of the Act because: (a) it was a one-time transaction for cash; (b) the Plan was able to sell the Mortgages at a price that was approximately \$61,000 above their fair market value; (c) the only expense the Plan paid related to the sale was the transfer fee of the Mortgages; (d) the Trustees determined that the transaction was appropriate and in the best interests of the Plan's participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all participants and beneficiaries. Such notice will either be personally delivered to such interested persons or will be mailed to such interested persons at their last known personal residence by first class mail. Such notice will contain a copy of the notice of pendency of such exemption published in the *Federal Register* and timely inform such interested persons within 10 days of the time the notice of pendency of exemption is published in the *Federal Register* of their right to

comment and their right to request a hearing within the period set forth in the notice of pendency of exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application

for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale for cash of \$249,338.49 by the Plan of the Mortgages to the Employer on December 24, 1980, provided the sales price of the Mortgages was not less than the fair market value of the Mortgages at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the proposed exemption.

Signed at Washington, D.C., this 5th day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

(FR Doc. 82-9656 Filed 4-8-82; 8:45 am)

BILLING CODE 4510-29-M

[Application No. D-2906]

Proposed Exemption for Certain Transactions Involving the Plumbers & Steamfitters Local 60 Health & Welfare Trust Fund Located in New Orleans, La.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed sale of a parcel of real property by Plumbers and Steamfitters Local 60 Health and Welfare Trust Fund

(the Plan) to the Plumbers and Steamfitters Home Association, Inc. (the Corporation), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Corporation, and any other persons and parties participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2906. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act. The proposed exemption was requested in an application filed on behalf of the trustees of the Plan, pursuant to section 406(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a welfare plan providing health and welfare benefits to plumbers and steamfitters working in the construction industry and the residential plumbing industry for employers who are signatories to or bound by collective bargaining agreements executed by Local Union No. 60, United Association of Journeymen & Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO (the Union). As of June 30, 1981, the Plan had approximately 3,450 participants and total assets of \$2,712,792. However,

the Plan, as of June 30, 1981, had total liabilities of \$3,394,524 thereby yielding a deficit of \$681,732. Current annual contributions exceed \$3,380,000. The applicant represents that increasingly inflated medical costs have produced the Plan's recent deficit. The Plan is administered by three Union and three contributing employer trustees (the Trustees). The three Union Trustees are the business manager and business agents of the Union.

2. The Corporation is a non-profit corporation owned by all the current, paid-in-full members of the Union. No capital stock has ever been issued by the Corporation. The Corporation's directors and officers can hold office only if they are Union officers. Each member of the Corporation is entitled to one vote in connection with the business activities of the Corporation.

3. On January 30, 1970, the Plan purchased for \$106,837 from an unrelated third party an unimproved parcel of real property located in Metairie, Louisiana (the Property). The Property fronts on three streets, Severn Avenue, 28th Street and Arnoult Road and contains approximately 57,750 square feet. The Plan acquired the Property in order to erect a building to house its activities. Such construction was never undertaken and the Property has remained non-income producing. The Property is adjacent to land owned by the Union which houses the Union's headquarters. Funds sponsored by the Union, i.e. the pension, education and vacation plans, and the Plan, presently lease space in this property. The applicant represents that section 406 of the Act does not apply to these leases by virtue of sections 406(b)(2) and 414(c)(2) of the Act.

4. Between 1970 and 1972 the Union constructed its building on the adjacent property and at that time, at its own cost, placed fill on the Property so that the parcels of land would be level and thereby avert flooding which commonly occurs in the New Orleans area. The Union has not used the Property in any other way.

5. The Trustees request an exemption to allow the Plan to sell the Property to the Corporation. Messrs. W. John Tessier, an I.F.A. appraiser, and C. J. Tessier, Jr., both of New Orleans, have appraised the Property and have determined that, as of August 26, 1981, the Property had a fair market value of \$577,500 in its current condition, and a fair market value of \$535,000 if the Property was not cleared and filled. The appraisers represent that the value of the Property to the Corporation, because of the Union's ownership of adjacent land, is 10% higher than if sold to any

other party. The appraisers represent that the figures cited above take into account this special increased value to the Corporation.

6. Ms. Marie Healy, an attorney with the firm Barker, Boudreaux, Lamy, Gardner and Foley located in New Orleans, and counsel for the Trustees of the Plan, has rendered a legal opinion stating that under applicable Louisiana law the Union has consistently and continuously remained the owner of the fill on the Property. The Trustees propose to sell the Property to the Corporation for a total purchase price of \$535,000 since the Union already owns the fill on the Property. The sale will be a cash sale and no commissions, fees or any other expenses will be charged to the Plan in connection with the sale.

7. After purchase the Union intends to construct a multi-story office building on the Property which would provide additional office space to the various employee benefit funds currently serving participants in the pipefitting and plumbing industry. The provision of such office space would be subject to the receipt of an administrative exemption from the applicable prohibited transaction provisions of the Act, if necessary.

8. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the sale of the Property will allow the Plan to dispose of a non-income producing asset for a total cash consideration at a gain; (b) the purchase price of the Property was determined by independent, qualified appraisers taking into account the special value of the Property to the Corporation; (c) the Plan will not incur any commissions or expenses in connection with the sale; and (d) the Trustees represent that the proposed sale of the Property to the Corporation is in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Within ten (10) days after publication of this notice of pendency in the Federal Register notice will be provided by posting in a place where notices are customarily posted in the Union's main office in New Orleans. Such notice to interested persons will contain a copy of the notice of pendency as published in the Federal Register and a statement informing each recipient of his right to comment on and/or request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to

the proposed cash sale of the Property by the Plan to the Corporation for \$535,000 provided that this amount is not less than the fair market value of the Property at the date of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of April 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9655 Filed 4-9-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2970]

Proposed Exemption for Certain Transactions Involving the International Union of Electrical Radio and Machine Workers, AFL-CIO Pension Fund Located in Bloomfield, New Jersey

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt, effective January 1, 1981, the lease of office space by the International Union of Electrical Radio and Machine Workers, AFL-CIO Pension Fund (the Plan) to Fidelity and Deposit Company of Maryland (Fidelity), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, Fidelity, and any other persons participating in the transaction.

DATES: Written comments must be received by the Department on or before May 21, 1982.

EFFECTIVE DATE: If granted, the exemption will be effective January 1, 1981.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200

Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-2970. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a multiemployer pension plan providing participants and beneficiaries with retirement, death, termination and other related benefits. As of December 31, 1980, the Plan had approximately 42,479 participants and beneficiaries and net assets of \$65,799,828. Current monthly contributions to the Plan exceed \$750,000. The Plan's contributing employers are those having a collective bargaining agreement with a local union of the International Union of Electrical Radio and Machine Workers, AFL-CIO (the Union), and other employers having an agreement whereby contributions are made to the Plan. The Plan is administered by four trustees (the Trustees), two selected by contributing employers, Messrs. John S. Vozella and

James C. Vito, and two selected by the Union, Messrs. Paul Jennings and Lloyd J. Hayes.

2. The Plan presently owns a building (the Building) located at 1460 Broad Street, Bloomfield, New Jersey, which serves as its principal headquarters. On January 1, 1981, Fidelity and the Plan entered into a lease (the Lease) for 8,670 square feet of space in the Building. The Lease is for a five year term and provides for Fidelity, as lessee, to have the right to renew the Lease for one additional five (5) year term. The annual amount of rental payable is \$97,080 which is payable in equal monthly installments of \$8,090. Upon a renewal of the Lease the rental payable will be increased in accordance with the increase of the Revised Consumer Price Index for Urban Wage Earners (all products and services for the New York-New Jersey metropolitan area 1967=100) over such index for the month of January 1981. The Plan and the IUE AFL-CIO Health Fund occupy the remaining space in the Building.

3. The applicant requests an exemption, effective January 1, 1981, for the Lease and any renewal thereof between the Plan and Fidelity. Fidelity has provided the Plan with Comprehensive Dishonesty, Disappearance and Destruction Insurance Policies since 1976 and presently has contracted with the Plan for the provision of such coverage until March 1, 1982. The present policy covers the period March 1, 1979 to March 1, 1982 and has a total premium of \$1,391. Fidelity is a party in interest with respect to the Plan under section 3(14)(C) of the Act by virtue of being a service provider to the Plan. Fidelity does not have any other relationship with the Plan or any trustees of the Plan.

4. The rental of space in the Building has been conducted on behalf of the Plan by contracting with real estate brokers, the Schlesinger Company of Clifton, New Jersey, and Albert Rubin of West Orange, New Jersey, (collectively, the Brokers) who, unaware of any relationship between the Plan and Fidelity, brought forth Fidelity as a prospective tenant. Prior to this the Plan was unaware of Fidelity's interest in acquiring office space and Fidelity was unaware of the availability of space in the Building. The Brokers determined the rental rate for the office space based on the then going rates for comparable office space in the general geographic area. The Trustees represent that the initial rental amount is customary for the type of building and amount of space leased and is not less than the fair market rental amount. The Trustees

represent that all of the transactions to date between the Plan and Fidelity have been conducted at arm's-length.

5. The Trustees represent that the Plan will suffer economic losses in the event of the termination of Fidelity's tenancy, such as loss of rental income while the space remains unleased and the incurring of real estate brokerage fees in order to locate another tenant.

6. In summary, the applicant represents that the transaction meets the statutory criteria of section 408(a) of the Act because (1) the rental amounts payable under the Lease have been determined by independent real estate brokers based on then current rates for comparable office space in the general geographic area; (2) the decision to lease to Fidelity and the terms of the Lease were approved by the Trustees, none of whom has any relationship to Fidelity; and (3) the Trustees represent that the Lease is in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Within ten (10) days after publication of this notice in the *Federal Register* notice of the pendency of this exemption will be posted for at least 30 days on the bulletin boards of all contributing employers with respect to the Plan. In addition, the Union will post the notice at its local and district offices. The trustees of the Plan and other Plan fiduciaries will within ten days after publication of this notice in the *Federal Register* be provided notice by first class mail. Notices as described above will include a copy of the notice of pendency as it appears in the *Federal Register* and will inform interested persons of their right to comment on the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the

exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply, effective January 1, 1981, to the Lease executed between the Plan and Fidelity as described above, provided that the terms of the Lease were not less favorable and remain as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and

representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 5th day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc 82-9854 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3075]

Proposed Exemption for Certain Transactions Involving the Nielsen Lithographing Company Employees' Profit Sharing Retirement Plan Located in Cincinnati, Ohio

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of funds by the Nielsen Lithographing Company Employees' Profit Sharing Retirement Plan (the Plan) to Nielsen Lithographing Company (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Employer, and any other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3075. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department,

telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution profit sharing plan with 48 participants. As of September 15, 1981, the Plan had total assets of \$1,333,346. Messrs. Eric C. Nielsen and Simon C. Nielsen are the trustees of the Plan (the Trustees) and maintain authority with respect to the management and investment of the Plan's assets. The Trustees are officers and/or directors of the Employer.

2. The Employer is engaged in the business of multi-purpose offset printing. As of June 30, 1981, the Employer had a total net worth of \$6,164,462. The applicant is requesting an exemption to allow the Plan to loan an amount not greater than \$500,000 to the Employer (the Loan). The maximum amount of funds loaned (\$500,000) will represent approximately 37.5% of the Plan's assets. The Loan proceeds will be used by the Employer to repay certain indebtedness owed to the First National Bank of Cincinnati (the Bank) and to finance the purchase of equipment. The Loan will be repayable over a five year term in quarterly installments of principal and interest, with all quarterly payments, except the final payment, equal to an amount necessary to amortize the Loan over twenty (20) years. The final payment, due five (5) years from the date of execution of the Loan would be

equal to the entire remaining balance of principal and interest. The interest rate will be $\frac{1}{2}$ of one percent above the Bank's prime commercial lending rate and will be adjusted at the beginning of each calendar quarter. In no event will the interest rate be adjusted to less than nine percent (9%) per annum.

3. The Loan will be secured by a duly executed and recorded first security interest in an M110 Web Offset Press and related equipment (the Collateral) which was purchased new by the Employer on June 29, 1981 and was delivered in September, 1981. The total purchase price for the Collateral was \$1,128,190. Mr. D. G. Hoover, Product Manager of the Harris Corporation, Commercial Press Division, the vendor of the Collateral, represents that, as of February 10, 1982, there has been no significant change or decline in the market value of the Collateral. The current fair market value of the Collateral is equal to approximately 225% of the maximum amount of the Loan. The applicant represents that it will add any additional collateral throughout the term of the Loan to assure that the value of the collateral securing the Loan is at all times in excess of one hundred and fifty percent (150%) of the outstanding balance of the Loan. The Employer will insure the Collateral against damage or fire or other loss at its own expense throughout the term of the Loan.

4. Mr. Lee W. Scroggins (Mr. Scroggins), a registered public accountant, has entered into an agreement with the Trustees to serve as the independent fiduciary manager with respect to the Loan. Mr. Scroggins has had broad experience in pension and profit-sharing plan administration and has general investment and management expertise. Neither Mr. Scroggins, nor his firm, Clayton L. Scroggins Associates, Inc., have had any prior business or personal dealings with the Employer or its principals. Mr. Scroggins has reviewed the terms of the proposed Loan and has initially determined that the proposed Loan is an appropriate investment for the Plan and will be in the best interests of the Plan and its participants and beneficiaries. Mr. Scroggins will make the same determination immediately prior to the consummation of the transaction. Mr. Scroggins will have final administrative authority and control over the Loan and will monitor and enforce the performance of the Employer's obligations under the Loan. Mr. Scroggins duties will include, but not be limited to, the quarterly adjustment of the Loan's interest rate, the

determination of the need for the provision of additional collateral to ensure that the total value of the collateral securing the Loan remains in excess of 150 percent of the outstanding balance of the Loan, determining whether the Employer is maintaining adequate insurance on all collateral to protect against a loss by fire or other damage, and the execution and filing of a valid security agreement and financing statement in favor of the Plan.

5. In summary, the applicant represents that the proposed Loan will satisfy the criteria of section 408(a) of the Act because (a) the Loan will yield a high rate of return to the Plan; (b) the Loan will be secured by a first security interest in the Collateral which has an initial value equal to 225% of the Loan; (c) Mr. Scroggins, a qualified, independent party, has reviewed the proposed transaction and has determined that the Loan is appropriate and will be in the best interests of the Plan and its participants and beneficiaries; and (d) Mr. Scroggins will monitor the Loan and enforce the performance of the Employer's obligations pursuant to the Loan.

Notice to Interested Persons

Within ten (10) days after this notice is published in the *Federal Register* notice will be provided to the participants and beneficiaries of the Plan by prominently posting at the Employer's place of business and by mailing or hand delivering. Such notice shall include a copy of the notice of pendency as published in the *Federal Register* and shall inform interested persons of their right to comment on and request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the

exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory of administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Loan, as described herein, by the Plan to the Employer provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party.

The proposed exemption, if granted, will be subject to the express condition

that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 6th day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9652 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-2763, D-2764 & D-2765]

Proposed Exemption for Certain Transactions Involving the Retirement & Security Program for Employees of National Rural Electric Cooperative, the Savings Plan for Employees of National Rural Electrical Cooperative and National Rural Electric Association Group Insurance Program Located in Washington, D.C.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) the establishment and operation of a partnership (the Partnership) between the Retirement & Security Program for Employees of National Rural Electric Cooperative (the R & S Plan), the Savings Plan for Employees of National Rural Electric Cooperative (the Savings Plan) and the National Rural Electric Cooperative Association Group Insurance Program (the Group Plan, collectively, the Plans), for the purchase of a computer system (the Computer), where the Plans are administered by a common trustee, Wachovia Bank and Trust Company (Wachovia); and (2) the lease of the computer by the Partnership to the Plans, the National Rural Electric Cooperative Association (NRECA), and the Retirement, Safety and Insurance Committee of NRECA (the RS & I Committee), parties in interest with respect to the Plans. The proposed exemption, if granted, would affect NRECA, Wachovia, the participants and

beneficiaries of the Plans and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before June 10, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2763, D-2764 & D-2765. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by NRECA and Wachovia, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. NRECA is an association composed of over 1,000 rural electric cooperatives located throughout the United States. The R & S Plan, the Savings Plan and the Group Plan have approximately 35,768, 19,188 and 37,359 participants,

respectively. The Plans are master trusts maintained for the purpose of funding certain employee benefit plans sponsored by NRECA as a service to its member cooperatives. The Plans have total assets of approximately \$624,000,000. The RS & I Committee is the administrator of the Plans. Wachovia is responsible for the investment of the assets of the Plans. Wachovia has no affiliation or business relationship with NRECA other than being trustee of the Plans.

2. In 1978, Honeywell Information Systems, Inc. (Honeywell) leased a computer system to NRECA. Because NRECA did not have the need for the full time use of this computer system for its own accounting needs, NRECA made it available to the RS & I Committee for the administration of the Plan¹ and also to the RS & I Committee for the operation of NRECA's deferred compensation program, a nonqualified program of individual accounts. The need for the use of the computer system by the Plans increased to such an extent that in 1978 the computer system was used by the RS & I Committee on behalf of the Plans approximately 90% of the time.

3. The applicants are requesting an exemption that would permit the formation of the Partnership for the purpose of acquiring, owning and leasing the Computer, which is an advanced model of the computer system previously leased by Honeywell to NRECA. The Partnership will lease the Computer to: (1) the RS & I Committee on behalf of each of the Plans; (2) to the RS & I Committee for the administration of the deferred compensation program of NRECA; and (3) to NRECA for its accounting needs. Each lease will have a term of 1 year, with the total rent for such year based upon the amount of time the particular lessee uses the Computer during the year. The leases will require that each lessee pay rentals to the Partnership of at least fair market rental value. The applicants represent that fair market rental value is that charged for computer time by companies in the marketplace that are in business of computer leasing.

4. The applicants represent that the Plans will account for 90% of the time the Computer is in use. Each Plan's capital contribution to the Partnership will be based upon the percentage of time the Plan is expected to utilize the

¹ No exemption from section 406 of the Act is being proposed for the use by the RS & I Committee on behalf of the Plans of the computer system leased by Honeywell to NRECA beyond that which is provided by statutory exemption section 408(b)(2) of the Act.

Computer. At the end of the Partnership's annual accounting period a particular Plan's capital account will be increased or decreased to reflect the percentage of time that the Plan utilized the Computer that year. The net financial effect of each Plan paying rent to the Partnership for Computer time will basically be negated by the distribution of Partnership income at the end of the Partnership's annual accounting period. There will, however, be a small profit to the Partnership because of rentals paid by the RS & I Committee for the administration of the deferred compensation program of NRECA and rentals paid by NRECA for its use of the Computer.

5. The applicants represent that the purchase price of the Computer from Honeywell and cost of software, maintenance and terminals over a six year period would be approximately \$1,820,714. However, the cost of leasing the Computer by Honeywell to the Plans would be approximately \$2,679,747. Therefore, the purchase of the Computer by the Partnership would result in a savings to the Plans of approximately \$900,000 when compared with the cost of leasing the Computer.

6. Wachovia has determined that the establishment and operation of the Partnership for the acquisition, ownership and lease of the Computer is in the best interests of the Plans. Wachovia has been appointed special Partnership manager and will manage the capital accounts of each Plan who is a partner in the Partnership. Wachovia will be responsible for the annual accounting of all profits and losses of the Partnership and will otherwise have sole responsibility and authority for the management and operation of the Partnership. Wachovia will also be responsible for monitoring rental payments made under all leases entered into by the Partnership and for maintaining the rentals on leases at no less than fair market rental value.

7. In summary, the applicants represent that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because: (1) Wachovia, an independent party, represents that the proposed transactions are in the best interests of the Plans; (2) Wachovia, as special Partnership manager, will have sole authority and responsibility for the management of the Partnership and will also be responsible for establishment and maintenance of rentals entered into by the Partnership at no less than fair market value; (3) the purchase of the Computer by the Partnership from Honeywell is considerably less

expensive to the Plans than the lease of the Computer by the Plans from Honeywell; (4) the use of the Computer by the Plans is necessary for the establishment and maintenance of the Plans; and (5) the purchase price of the Computer represents a small percentage of the assets of the Plans.

Notice to Interested Persons

Notice of the Proposed exemption will be given to all participants and beneficiaries of the Plans within 30 days of the publication of the notice of pendency in the Federal Register. Notice will be provided by mail or by posting on bulletin boards at the electric cooperatives at which employees covered by the Plans are employed. The notice will contain a copy of the notice of pendency as well as a statement informing all interested persons of their right to comment or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code,

including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the establishment and operation of the Partnership for the purchase and use of the Computer where the Plans are administered by Wachovia, a common trustee, provided the terms and conditions of the Partnership are at least as favorable to each Plan as each Plan could obtain in a similar transaction with an unrelated party; and (2) the leases of the Computer by the Partnership to the Plans, the RS & I Committee and NRECA, provided the terms and conditions of the leases are at least as favorable to the Plans as the Plans could obtain in similar transactions with unrelated parties.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9657 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2386]

Proposed Exemption for Certain Transactions Involving the Profit Sharing Plan & Trust of Bradford Clinic, P.A. Located in Charlotte, North Carolina

AGENCY: Office of Pension and Welfare Benefit Program, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt (1) the proposed purchase by the Profit Sharing Plan & Trust of Bradford Clinic, P.A. (the Plan) of certain improvements from Pyramid Partners (the Partnership), party in interest with respect to the Plan; (2) the proposed assumption by the Plan of the Partnership's role in a lease to Bradford Clinic, P.A. (the Employer) of such improvements and the land on which they are situated; and (3) the proposed guarantee by the owners of the Employer of the Employer's obligation to make all rental payments required under the lease. The proposed exemption, if granted, would affect the participants, beneficiaries, and trustee of the Plan, the Partnership, and the Employer.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before June 9, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2386. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and

Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department of Labor, telephone (202) 523-8671. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan covered approximately 22 participants as of January 22, 1981, and had total assets of \$1,684,385 as of March 31, 1981. The Plan trustees are Drs. John H. E. Woltz, Joseph B. McCoy, W. Z. Bradford, Jr., W. Ray Samuels, John H. Whiteside, and L. Clay Harrell. The employer is a medical clinic specializing in obstetrics and gynecology. The first four of the trustees named above are partners in the Partnership. All 6 of the Plan trustees are the owners of the Employer. The land in question is located at 150 Providence Road, Charlotte, North Carolina. The improvements thereon consist of 1-story brick building, commonly known as the Bradford Clinic.

2. The Plan purchased the major portion of the land by deed dated September 30, 1974, from the Partnership. By deed dated March 24, 1975, the Plan purchased the balance of the land from Jean Price Jordan, et al., who had no relationship to either the Employer or the Partnership, according to representations submitted. By lease

dated October 1, 1974, the Plan leased the unimproved land to the Partnership for a period of 20 years.¹ Paragraph 23 of this lease (the Ground Lease) permits the Partnership to renew the lease for an additional five years. The Ground Lease originally provided for an annual rental of \$15,000 plus an additional \$3,000 once the additional lot was acquired. The Ground Lease is net-net and gives the Partnership the right to purchase the land at any time after the tenth year of the lease for the then fair market value (paragraph 25). Paragraph 4 of the Ground Lease provides for cost-of-living adjustments to the rental rate on October 1, 1979, 1984, 1989, and 1994. Due to such adjustment, the current annual rent is \$26,841 (149.119% of the original annual rental of \$18,000). Paragraph 26 of the Ground Lease provides that upon termination of the lease, legal title to the improvement known as The Bradford Clinic, located on the leased premises, shall immediately vest in the Plan. However, the Partnership has the option to repurchase such improvement from the Plan if the Partnership also exercises its option to purchase the land from the Plan.²

3. The Partnership constructed the improvements and borrowed \$325,000 from First Union & Co. for this purpose by means of a note secured by a deed of trust dated December 31, 1974, to which the Plan is a party. Under the deed of trust, the land owned by the Plan is subject to a lien in order to secure the \$325,000 loan to the Partnership.³ For the same purpose, the Plan subordinated its interest as landlord in the Ground Lease,⁴ according to a separate Subordination Agreement recorded December 31, 1974, in the Mecklenburg County, North Carolina Real Estate Book (page 3730 0130). As of December 31, 1981, the balance due under the loan was \$267,069.08. The Partnership borrowed an additional \$35,000 to finance construction of the improvements on January 11, 1978, but the information submitted does not indicate that the Plan was involved in the smaller loan.

4. By lease agreement dated October 1, 1974, the Partnership leased the improvements and subleased the land to the Employer for 20 years plus, at the

Employer's option, an additional five years, at an original annual rental of \$56,000 plus an additional \$3,000 after the additional lot was acquired. In 1978 the Partnership added two rooms to the improvements and accordingly increased the rent by \$5,208 per year. Paragraph 4 of this lease (the Clinic Lease) provides for the same cost-of-living adjustments to the annual rental as is provided in paragraph 4 of the Ground Lease. Due to such adjustment, the current annual rental is \$95,746 (also 149.119% of the original annual rental). The Clinic Lease also permits the Employer to purchase the property from the Partnership at the end of the lease term. The Clinic Lease requires the Employer, as tenant, to pay all ad valorem taxes and assessments, liability insurance, casualty insurance, utility charges, and janitorial expenses on the improvements, as well as specified types of maintenance expenses. The Partnership, as landlord, is obligated to pay for all exterior repairs and replacements. The Clinic Lease will be amended to provide that the rental will be adjusted every three years to equal the greater of the fair rental value as determined by an independent appraisal or the rental as adjusted by the cost-of-living index. An appraisal of fair rental value will be made, at the Employer's expense, at least every three years.

5. Mr. Leo H. Phelan, Jr., A.A.C.A. and A.C.R.E.C., has appraised the fair market value of the land and the improvements as \$756,000 as of June 17, 1980. \$299,500 of this amount is Mr. Phelan's estimate of the fair market value of the land. Counsel for the applicants represents that the provision in paragraph 26 of the Ground Lease giving the Plan legal title to the improvements upon termination of the Ground Lease, does not affect the fair market value of the improvements because if the Partnership were to exercise its option to purchase the land from the Plan (see paragraph 2, above), under North Carolina law the aforementioned provision of paragraph 26 of the lease would be inoperative and the Plan's right to own the improvements would be cut off. Mr. Phelan also estimates the fair rental value of the land and improvements as \$103,526 gross per year. It is represented that the net-net rental based on this appraised gross rental would be \$88,526 for 1980 since the Employer spent approximately \$15,000 for taxes, insurance, janitorial services, and maintenance that year. Mr. Phelan has actively engaged in the practice of general real estate since 1945 and states that he is experienced in appraising

¹ This proposed exemption provides no relief from the provisions of section 406 of the Act with respect to any of the past prohibited transactions involving the land, the improvements, or related transactions.

² This proposed exemption provides no relief from the provisions of section 406 of the Act with respect to any future sale of the land and/or the improvements by the Plan to the Partnership or to any other party in interest with respect to the Plan.

³ See footnote 1, above.

⁴ See footnote 1, above.

commercial and industrial buildings, including special purpose buildings, among other types of buildings and land. He believes the improvements and the land in question have excellent marketable potential based on, among other things, the excellent condition of the improvements and equipment located therein and the location of the property.

6. The Partnership proposes to sell the improvements and transfer its interest as landlord in the Clinic Lease to the Plan. The Partnership does not wish to purchase the land from the Plan because the partners do not wish to engage in the real estate business and desire to avoid the complications that would be encountered if they attempted to add new partners as new physicians join the Employer. The purchase price of the improvements shall be their appraised value as determined within 60 days of the closing date of the purchase by a qualified independent appraiser appointed by North Carolina National Bank (NCNB). The purchase price shall be paid partly in cash and partly by assuming the unpaid balance and all obligations of the Partnership under the existing note and trust deed. The Plan will not incur any expenses in the purchase transaction other than the cost of recording its deed, which would be approximately \$6. The individual owners of the Employer will guarantee the payment of the rent that will be due to the Plan and will not require the Plan to proceed first against the Employer. The aggregate net worth of the six guarantors, who will be jointly and severally liable under the proposed guaranty, exceeded \$3,925,000 during April and May 1981. If the proposed exemption is granted, within 60 days of the date the grant notice is published in the Federal Register, the Employer will file Form 5330, Return of Initial Excise Taxes Related to Pension and Profit-Sharing Plans, with the Internal Revenue Service reporting all prior prohibited transactions and paying the excise taxes due thereon.

7. NCNB will become trustee of the Plan if the proposed exemption is granted and in such capacity will be responsible for supervising the proposed purchase and the lease in question. NCNB recommends that the Plan assume the existing indebtedness on the improvements and believes that the proposed transaction is in the interest of the Plan and is protective of the rights of the participants and beneficiaries of the Plan. NCNB states that the net operating income from the property is more than sufficient to service the proposed debt and the tenant is of sound credit rating.

NCNB also states that it has extensive experience in managing real estate. NCNB represents that it is not related to the Employer but that the plan may hold a small number of shares of NCNB common stock, which is traded on the New York Stock Exchange. 7,387,246 shares of such stock were issued and outstanding as of December 31, 1980. The applicants represent that no one affiliated with the Employer of the Partnership are officers or directors of NCNB, that none of the partners of the Partnership or stockholders of employees of the Employer have any loans outstanding from NCNB, and that only two employees of the Employer own shares of NCNB stock (212 of such shares). The information submitted also shows that the Employer has no outstanding loans from NCNB. NCNB also represents that NCNB is aware of no conflict of interest that would prevent it from qualifying as trustee of the Plan.

8. In summary, the applicants state that the proposed transactions would meet the criteria of section 408(a) of the Act because (a) an independent fiduciary believes the proposed transactions are in the interest of the Plan and protect the rights of the participants and beneficiaries of the Plan, (b) such independent fiduciary will be responsible for supervising the proposed transactions, (c) the purchase price of the improvements shall be their appraised value as determined within 60 days of the closing date of the purchase by a qualified independent appraiser, (d) the Plan will not incur any expenses in the purchase transaction other than the cost of recording its deed (approximately \$6), (e) the owners of the Employer will guarantee the payment of the rent payable to the Plan under the lease, (f) rent payable under the lease to the Plan is not less than the fair rental value of the premises, as determined by a qualified independent appraiser, and will be adjusted every three years to equal the greater of the fair rental value as determined by a qualified independent appraiser or the rental as adjusted by the cost-of-living index, and (g) the Plan will pay no expenses under the lease except for exterior repairs and replacements.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and

therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Within 25 days of the date this notice of proposed exemption is published in the Federal Register (on or before May 4, 1982), the applicants will notify all interested persons of the pendency of this application for exemption. Interested persons include all participants and beneficiaries of the Plan. The notice will contain a copy of the notice published in the Federal Register and an additional statement informing interested persons of their rights to comment and/or request that a hearing be held with respect to the proposed exemption. The notice shall be personally delivered to each interested party.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefits of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative

exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above.

All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the purchase by the Plan from the Partnership of the improvements described above provided that their purchase price does not exceed their fair market value as of the date of purchase, (2) the assumption by the Plan of the Partnership's role in the lease to the Employer of such improvements and the land on which they are situated provided that the above described proposed amendments to the lease and the proposed rent-guarantee agreement are adopted before the Plan becomes a party to the lease, and (3) the guarantee by the owners of the Employer of the Employer's obligation to make all rental payments required under the lease.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9398 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3166]

Proposed Exemption for Certain Transactions Involving the Custom Machine, Inc. Profit Sharing Trust Located in Woburn, Massachusetts

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt (1) the proposed loans (the Loans) of money for a period of five years by the Custom Machine, Inc. Profit Sharing Trust (the Plan) to the OMSOC Equipment Trust (OMSOC), a party in interest with respect to the Plan; and (2) the guarantee of the Loans by Custom Machine, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Plan, the Employer and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before May 19, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3166. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. This notice of pendency was originally published in the *Federal Register* on November 20, 1981 (46 FR 57157). Due to the change in the party to whom the Loans are being made, this notice of pendency is being republished as follows:

2. The Plan is a profit sharing plan which, as of April 30, 1981, had 16 participants and assets of approximately \$85,000. The trustees (the Trustees) of the Plan are Cosmo Pasciuto (Pasciuto) and his wife Anna Pasciuto. Pasciuto is the president and sole owner of the Employer. The Employer is a machine shop engaged primarily in the business of custom machining and milling of various metals and plastics. The Employer owns and leases a number of milling and metal working machines (the Machines). OMSOC is a Clifford trust established by Pasciuto and his wife for the benefit of their children.

3. The Employer is requesting an exemption to allow the Plan for a period of five years to make Loans on a recurring basis to OMSOC. The proceeds of the Loans will be used by OMSOC to purchase milling and metal working machines, some of which will be leased to the Employer and some of which will be leased to unrelated machine shops. The five year Loan period will begin on the date the

exemption for the proposed transactions is published in the Federal Register. The Loans will be subject the following conditions:

(a) Only new Machines will be purchased.

(b) Each Loan will be collateralized by a promissory note and a security agreement.

(c) Each Loan will have a first lien on the purchased Machine and in addition will be collateralized by additional Machines owned by the Employer or OMSOC such that at all times each Loan will be collateralized in an amount at least equal to 200% of the outstanding balance of such Loan.

(d) The maximum length of any Loan will be 60 months.

(e) The interest rate on the Loans will be fixed at a rate of 1% above the prevailing prime rate of the Woburn Bank and Trust Company located in Woburn, Massachusetts.

(f) At the time of its making, no Loan, together with the outstanding balances on other Loans will exceed 25% of the market value of the assets of the Plan.

(g) The Employer or OMSOC will adequately insure the Machines and all other collateral against fire and all other relevant hazards with the Plan being the named beneficiary of such insurance.

(h) Each Loan will be guaranteed by the Employer.

4. Prior to the Plan entering into any Loan an independent fiduciary, Mr. Roy Henshaw (Henshaw), must certify that such Loan will be an appropriate investment for the Plan and that the terms of such Loan are at least equal to those which the Plan could receive in a similar transaction with an unrelated party. Henshaw will also be responsible for monitoring the fair market value of the collateral used in securing the Loans and for monitoring the terms and conditions of the Loans on behalf of the Plan. Henshaw is a C.P.A. who is located in Stoughton, Massachusetts and is represented by the applicant to have experience in business and investment matters.

5. In summary, the applicant represents that the proposed transactions will meet the statutory criteria of section 408(a) of the Act as follows: (1) The Trustees of the Plan represent that the Loans will be in the best interests of the Plan; (2) the Loans will be approved and monitored by an independent fiduciary; (3) the Plans will receive a high rate of return on their investments; (4) the Loans will be secured at all times in an amount at least equal to 200% of the outstanding

balance of the Loans; and (5) the exemption will be for a five year period.

Notice to Interested Persons

Within ten days of its publication in the Federal Register a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plan of their right to comment or request a hearing will be posted at the Employer's worksite in a place where all participants and beneficiaries of the Plan will see it. Any participant or beneficiary of the Plan not at the Employer's worksite will be mailed the same information within the ten day period.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction

is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply (1) for a period of five years to the Loans by the Plan to the OMSOC provided that the terms and conditions of such Loans are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party; and (2) to the guarantee of the Loans by the Employer.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2nd day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9399 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-22-M

[Exemption Application Nos. D-1896 and D1897; Prohibited Transaction Exemption 82-64]

Exemption From the Prohibitions for Certain Transactions Involving Genesco Retirement Plan and Roos-Atkins Retirement Trust Located in Nashville, TN

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) the acceptance by the Genesco Pooled Investment Trust Fund (the Fund), a pooled investment trust fund operated by Genesco Retirement Plan and Roos-Atkins Retirement Trust (the Plans), from Genesco, Inc. (Genesco), the Plans' sponsor, on March 24, 1980 of a settlement of a class-action suit which included cash and Genesco common stock warrants; and (2) the proposed exercise of the warrants, which would result in Fund acquisition and holding of qualifying employer securities and qualifying employer real property in excess of the limits set out in section 407(a) of the Act, provided that the Fund is in full compliance with the limitations of Section 407(a) prior to January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the Federal Register (46 FR 57182) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) (1) and (2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any

interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has informed the Department that it was unable to distribute the notice prior to January 20, 1982, which was the date stipulated in the proposed exemption. The required notice was given to all interested persons prior to February 10, 1982, and each recipient was informed that the thirty day period of time within which he could submit comments or request a hearing regarding the proposed exemption was extended to March 12, 1982.

No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction

is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of sections 406(a), 406(b) (1) and (2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The acceptance by the Fund from Genesco on March 24, 1980, of a settlement of a class-action suit which included cash and Genesco common stock warrants, and (2) the future exercise of the warrants and resultant acquisition of Genesco common stock, provided that the Fund is in compliance with section 407(a)(3)(B) prior to January 1, 1985.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 2nd day of April, 1982.

Alan D. Lebowitz,
Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9400 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3079]

Proposed Exemption for Certain Transactions Involving the Group Health Cooperative of Puget Sound Staff Pension Plan Located in Seattle, Washington

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the contribution, sale and purchase of certain fixed income and equity securities between the Group Health Cooperative of Puget Sound Staff Pension Plan (the Plan) and professional and administrative employees (the Participants) of Group Health Cooperative of the Puget Sound (the Employer). The proposed exemption, if granted, would affect the Participants and beneficiaries of the Plan and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before May 28, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3079. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer and the Plan trustee, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the

Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a health maintenance organization serving the Seattle, Olympia and Tacoma, Washington metropolitan areas. The Employer serves over 240,000 subscribers and employs more than 3,500 individuals.

2. The Plan is an integrated, defined contribution plan providing benefits to approximately 300 participants who are employed in professional and administrative positions. The Plan does not cover individuals employed by the Employer on a temporary or contractual basis nor does it include those persons employed in a residency program. As of December 31, 1981, the Plan had total assets of \$19,041,252. The trustee of the Plan (the Trustee) is the Rainier National Bank, a national banking concern having its principal office in Seattle, Washington.

3. The Plan contains three types of Participant accounts whereby individual Participants direct their investments. The first type of account is the Employer Contribution Account which reflects contributions made by the Employer to the Plan. The second type of account is the Participant Contribution Account which includes both voluntary contributions by Participants and pre-1971 mandatory contributions. The third kind of account is the Rollover Account to which rollover amounts are transferred pursuant to applicable Code provisions.

4. Participants in the Plan are afforded a broad range of options as to the investment of their account balances. A Participant may direct any portion of his/her accounts be held in one of four Commingled Investment Funds: A General Fund, a Fixed Income Fund, and Equity Fund and a Short Term Money Market Fund. In addition, a Participant may request that any portion of his/her accounts be held in one or more Individually Directed Portfolios (the Portfolios): the Mutual Fund Portfolio, consisting of "load"-type mutual funds which are selected by the Participant and held in the name of the Trustee for the benefit of the Participant; the Treasury Issue Portfolio which holds U.S. Treasury bills, notes and bonds; the Insurance Portfolio which consists of life

insurance and annuity contracts selected by the Participant and held by the Trustee; and the Broker Portfolio which consists of assets purchases through a stock brokerage firm chosen by the Participant.

5. An exemption is requested to allow Plan participants to contribute, sell or purchase certain mutual funds, U.S. Treasury shares and other securities. Participants are to engage in these transactions with the Portfolios maintained by the Plan. A Participant will be permitted to contribute, sell or purchase "load" mutual funds held in the Mutual Fund Portfolio; individual life insurance contracts and annuities held in the Insurance Portfolio subject to the limitations of Prohibited Transaction Exemptions (PTE) 77-7 and 77-8,¹ and other securities held in the Broker Portfolio and which appear on an approved list of securities issued by brokerage firms approved by the Employer.² The transactions will be permitted to the extent they do not contravene Plan articles. However, certain investments will be expressly prohibited, e.g. commodity contracts, tax exempt municipal bonds, securities issued by the Employer or other participating employer and securities purchased on margin or acquired subject to margin restrictions.

6. The exemption request also imposes additional restrictions on the proposed transactions. For example, all securities must be traded on a national or regional securities exchange or with the brokerage firm acting as principal. No private sales or placements will be permitted. In addition, the values of the securities, mutual funds and Treasury issues involved in the transactions will be equal to their fair market valuations as of the end of the day of actual transfer. Such values will be based on listings appearing in The Wall Street Journal. Where separate bid and asked for quotes are given, the value taken will be the average of two quotes. Moreover, Participants who wish to engage in the proposed transactions will not be permitted to deal directly with the financial institutions, brokerage houses or mutual fund companies involved. All such transactions will be conducted by the Employer at the Participant's request and in accordance with detailed procedures. Essentially, the Employer will inform the Trustee to transfer

¹The Department is not proposing an exemption for the purchase or sale of insurance contracts beyond that which is provided in PTEs 77-7 and 77-8.

²There are currently ten brokerage firms approved by the Employer, all of which are members of the New York Stock Exchange.

securities from a Participant's personal account to a Participant's account under the Plan or vice versa, and cause funds to be remitted to the Participant or collected from the Participant. Finally, all transactions entered into between the Plan and the Participants will be audited annually by an independent accounting firm.

7. In summary, it is represented that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) They will eliminate fees and commissions Participants would typically be forced to incur in securities transactions; (b) they will result in reduced costs and increased flexibility for individual Participants; and (c) all transactions will be conducted on the specific instructions of a Plan Participant, and only such Participant's Accounts will be affected by such transactions.

Notice to Interested Persons

Notice of the proposed exemption will be given to all Participants within fourteen (14) days of the publication of the notice of pendency in the *Federal Register* (on or before April 23, 1982). The notice will include a copy of the notice of pendency as published in the *Federal Register* and will inform interested persons of their right to comment and/or request that a hearing with respect to the proposed exemption. Notice to Participants will be provided by mail or by personal delivery.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the

Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Participant directed contribution, sale and purchase of certain fixed income and equity securities between the Plan and the Participants of the Plan, provided all purchases and sales are conducted at fair market value and all Participant contributions are valued at their fair market value on the date contributed.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and

that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2d day of April 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9401 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2571]

Proposed Exemption for Certain Transactions Involving the National Bank of Fairfax/First and Merchants National Bank Employee Benefits Trust Collective Investment Fund Located in Burke, Va.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed cash sale of mortgage notes and participation interests in mortgage notes by the National Bank of Fairfax Employee Benefits Trust Collective Investment Fund (the Fund) to the First & Merchants National Bank (First & Merchants), the present Fund sponsor. The proposed exemption, if granted, would affect First & Merchants, the Fund, participating plans in the Fund and their participants and beneficiaries.

DATE: Written comments and requests for a public hearing must be received by the Department on or before May 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2571. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200

Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Fund, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Fund is a collective investment fund containing, as of May 1981, assets received from seven (7) defined contribution plans (Participating Plans). The Fund was established on November 16, 1978, and received a favorable determination letter from the Internal Revenue Service on August 7, 1979. As of December 31, 1980, the Fund had total net assets of \$890,092.

2. Until July 1, 1981, the Fund was sponsored by the National Bank of Fairfax (the Bank), a national banking association subject to the jurisdiction and examination of the Comptroller of the Currency (the Comptroller). On July 1, 1981, the Bank merged into First & Merchants, another national banking association. Accordingly, First & Merchants succeeded to all obligations and relations of trust of the Bank and became by operation of law the trustee of the Fund. Effective July 1, 1981, all relations with participants in the Fund have been conducted in the name of First & Merchants.

3. As of March 1, 1981, approximately 37% of the Fund's assets consisted of five (5) mortgage notes and a

participation interest in two other mortgage notes (the Mortgages). The Mortgages were acquired by the Fund from another collective investment fund sponsored by the Bank.¹ The Mortgages are secured by residential or commercial real property and bear interest rates ranging from 6% to 11.25%. As of March 1, 1981, the outstanding principal balances of the Mortgages totaled \$316,338.

4. The Bank had been for accounting purposes, valuing the Mortgages at their outstanding principal balances. An examination of the Bank by the Comptroller determined that the Bank's valuation procedures were in violation of the Comptroller's Trust Precedent 9.5725 (the Precedent) which provides for the valuation of mortgage notes held by collective investment funds (when such notes constitute more than 10 percent of the assets of the Fund) in line with the current market rate for such mortgage notes. The Bank and the Comptroller agreed that conformity with the Precedent could be attained either by the Bank valuing the Mortgages at their fair market value, or by the purchase of the Mortgages by the Bank from the Fund for an amount equal to their outstanding principal balances plus accrued interest. On January 15, 1981, the Comptroller directed the Bank (subject to the granting of an exemption by the Department) to purchase the Mortgages in order to be in conformity with the Precedent.

5. Mr. John H. Thompson, (Mr. Thompson) an independent appraiser, determined that, as of March 20, 1981, the Mortgages had a fair market value of \$278,171. This amount is approximately \$30,401 less than the outstanding principal balances of the Mortgages as of that date (\$308,572). Mr. Thompson further determined that, as of March 20, 1981, each Mortgage's fair market value was less than its outstanding principal balance.

6. First & Merchants proposes to purchase the Mortgages from the Fund for cash at their total outstanding principal balances plus accrued interest to the date of purchase. The proceeds of the sale will be reinvested by the Fund in other investments. The sale of the Mortgages will enable First & Merchants to comply with the Precedent and will be in conformity with the Comptroller's directive to purchase the Mortgages. The Fund will not incur any expenses with respect to the sale.

¹ The Fund's acquisition of the Mortgages may have involved transactions prohibited by section 406 of the Act. The applicant has not requested and the Department is not proposing an exemption for the Fund's acquisition of the Mortgages.

7. In summary, the applicant represents that the proposed sale of the Mortgages by the Fund satisfies the statutory criteria of section 408(a) of the Act because (a) the trustee of the Fund represents that the sale is in the best interests of the Fund and the Participating Plans; (b) the sale will be a one-time transaction for cash; (c) the Fund will not incur any expenses with respect to the proposed sale; (d) the Fund will be able to sell each of the Mortgages for an amount higher than each Mortgage's fair market value; and (e) the sale will enable First & Merchants to comply with the Precedent.

Notice to Interested Persons

Within ten (10) days after its publication in the *Federal Register* (on or before April 19, 1982), a copy of this notice of pendency will be provided to every participant of each Participating Plan in the Fund. Notice will be provided either by first-class mail, by posting in a conspicuous area on the business premises of employers whose plans participate in the Fund, or by hand delivery. The notice will include a copy of the notice of pendency as published in the *Federal Register* and will inform interested persons of their right to comment on or request a hearing regarding the requested exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposes exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Mortgages for their outstanding principal balances plus accrued interest by the Fund to First & Merchants, provided that this amount is not less than the fair market value of the Mortgages on the date of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2d day of April, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9402 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application No. L-2865; Prohibited Transaction Exemption 82-65]

Exemption from the Prohibitions for Certain Transactions Involving the United Mine Workers of America 1950 Benefit Plan and Trust Located in Washington, D.C.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit the trustees (the Trustees) of the United Mine Workers of America 1950 Benefit Plan (the 1950 Benefit Plan) to resolve certain disputes (the Disputes) arising in connection with the provision of health and other benefits by certain employee welfare benefit plans (the 1981 Plans) established by individual employers pursuant to the National Bituminous Coal Wage Agreement of 1981 (the 1981 Agreement).

DATE: The exemption is effective from June 7, 1981, until the date of termination of the 1981 Agreement.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8881. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the Federal Register (46 FR 57194) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act) for the above described settlement of the Disputes by the Trustees. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In

addition the notice stated that any interested person might submit a written request that a public hearing be held relating to the proposed exemption. The applicants represent that they satisfied the notification provisions as set forth in the notice of pendency. Following the publication of the proposed exemption, the Department received three written comments from participants of the Plan. The three comments that were submitted raised issues that were not directed as to whether or not the proposed exemption should be granted. The Department also received two requests for a hearing. A hearing was held in Washington on March 15, 1982 at which time testimony was received from the burden of administrative costs which might accrue to the 1950 Benefit Plan with respect to the Trustees settling the Disputes regarding the 1981 Plans. They also questioned the Trustees authority to settle certain other types of disputes. Three commentators gave testimony in support of the proposed exemption and responded to the questions raised by the commentators opposed to the proposed exemption.

After consideration of the application as well as the comments received and the testimony presented at the hearing, the Department has decided to grant the exemption in the form in which it was proposed.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(b) (2) and (3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive or

whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the 1950 Benefit Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the 1950 Benefit Plan.

Accordingly, effective June 7, 1981, and until the date of termination of the 1981 Agreement, the restrictions of section 406(a) and 406(b)(1) of the Act shall not apply to the resolution by the Trustees of the Disputes arising in connection with the provision of health and other benefits by the 1981 Plans, provided that the Trustees maintain, and make available to the Department upon request, records adequate to ascertain both the cost of rendering such services and the portion of such costs which may be attributed to the resolution of each of the three types of Disputes which the Trustees may consider.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 2nd day of April, 1982

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-9403 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-29-M

the twenty-sixth meeting of the National Commission for Employment Policy, at the International Hotel, Massachusetts at Vermont Avenues, N.W., Washington, D.C.

DATE: April 30, 9:00 a.m.-4:00 p.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE DISCUSSED: Commission members will hear presentations on vocational education. They will discuss a policy statement on improving the labor market position of Hispanic-Americans, and will hear staff reports on ongoing and proposed projects.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph E. Smith, Deputy Director, National Commission for Employment Policy, 1522 K Street NW., Suite 300, Washington, D.C. 20005 (202-724-1553)

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established as title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. People wishing to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Deputy Director at least two days before the meeting and not more than seven days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the Deputy Director at least three days before the meeting. This application should include: name and address of applicant, subject of presentation, relation to agenda, amount of time needed, individual's qualifications to speak on the subject, and a statement justifying the need for an oral rather than written presentation.

The Commission Chairman has the right to decide to what extent public oral presentations may be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of Commission members or other participants unless these questions have

been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street, N.W., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C., this 1st day of April, 1982.

Ralph E. Smith,

Deputy Director.

[FR Doc. 82-9663 Filed 4-8-82; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission Public Document Room located at 1717 H St., N.W., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before May 10, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new applications for the week ending April 2, 1982.

Dated this 6th day of April, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is given of

FEDERAL REGISTER (EXPORT)

Name of applicant, date of application, date received and application No.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Mitsui & Co., Mar. 17, 1982, Mar. 23, 1982, XSNM01940.	2.85 percent enriched uranium.....	147,865	3,215	Fuel for Fukushima II, Unit 3 Initial Core.....	Japan.
Mitsubishi Int'l, Mar. 17, 1982, Mar. 25, 1982, XSNM01941.	3.45 percent enriched uranium.....	21,708	749	Reload fuel for Ikata Nuclear Power, Unit 1.....	Japan.
Exxon Nuclear, Mar. 25, 1982, March 29, 1982, XSNM01943.	4.0 percent enriched uranium.....	755	30	Lead assemblies for loading into the KRB IIC Reactor.....	W. Germany.

[FR Doc. 82-9714 Filed 4-7-82; 8:45 am]

BILLING CODE 7590-01-M

Abnormal Occurrence; Seismic Design Errors at Diablo Canyon Nuclear Power Plant

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the *Federal Register* on February 24, 1977 (42 FR 10950). One of the general criteria notes that major deficiencies in management controls for licensed facilities can be considered an abnormal occurrence. The following description of the incident also contains the remedial actions taken to date.

Date and Place.—On September 28, 1981 and September 30, 1981, Pacific Gas and Electric (PG&E) submitted letters to the NRC stating that certain drawings ("diagrams") used in the seismic design in the Diablo Canyon Unit 1 containment annulus area were in error. The diagrams used were applicable to Diablo Canyon Unit 2, but were identified for use in the Unit 1 seismic design. Subsequent investigation into this issue revealed additional design errors. This resulted in suspension of the Diablo Canyon Unit 1 fuel load and low-power operating license on November 19, 1981. License DPR-76 had been issued on September 22, 1981, and authorized fuel loading and the conduct of tests at up to five percent of rated power at Diablo Canyon Unit No. 1. (Unit 2 was still under construction and had not yet received an operating license). Diablo Canyon Units 1 and 2 utilize pressurized water reactors and are located in San Luis Obispo County, California.

Nature and Probable Consequences.—On September 21, 1981, an engineer employed by PG&E in the hanger design group, was performing work for Diablo Canyon Unit 2 in response to NRC IE

Bulletin No. 79-14 ("Seismic Analysis for As-Built Safety-Related Piping Systems"). This work involved the use of diagrams of the containment building annulus area. The engineer became suspicious that the supposedly Unit 2 diagrams did not accurately represent Unit 2 structural configuration. On September 21-22, 1981, he continued to investigate this apparent discrepancy and brought it to the attention of his immediate supervisor. On September 24, the responsible Senior Civil Engineer had been informed of the apparent discrepancy. On September 25, second level PG&E management were notified and they in turn contacted their seismic design contractor, URS/John A. Blume and Associates (URS/Blume). URS/Blume confirmed that the wrong diagrams had been used. On September 26, PG&E management continued to evaluate the problem. On September 27, the Plant Superintendent notified the NRC Senior Resident Inspector that a problem did indeed exist.

NRC investigation into the situation disclosed the following:

(1) The diagrams were developed at PG&E and apparently given to URS/Blume on March 8, 1977 for their use in the development of vertical seismic response spectra for the Unit 1 and Unit 2 containment building annulus areas.

(2) URS/Blume, when given the diagrams, knew the diagrams were applicable to Unit 2. However, they were not aware that the Unit 1 and Unit 2 containment annulus areas are mirror images. Therefore, during the development of the associated seismic response spectra, URS/Blume assumed that both Unit 1 and Unit 2 containment buildings were of the same configuration.

(3) PG&E, upon receipt of the seismic response spectra in May 1977 and July 1977, developed by URS/Blume, assumed the spectra and associated containment annulus frame orientation diagrams were for the Unit 1 containment since it was identified as such by URS/Blume. In actuality, the containment annulus from orientation diagrams represented the Unit 2 containment. PG&E, in turn, performed subsequent design calculations for Unit 1 using Unit 2 frame orientation diagrams. PG&E then, knowing that Unit 2 containment was a mirror image

of Unit 1, "flipped" the diagram for use in performing design calculations for Unit 2. PG&E, thus in turn, erroneously used Unit 1 containment annulus frame orientation diagrams for the development of Unit 2 design requirements.

Upon confirmation that wrong diagrams were used in the development of Unit 1 design requirements, PG&E initiated a reanalysis effort of structures, equipment and components in the containment annulus using the appropriate containment annulus frame orientation diagrams. These initial reanalyses indicated that, as a result of the error, modifications were required to be made on a number of Unit 1 pipe supports. These modifications involved such actions as adding snubbers, changing the snubber size, adding braces, replacing structural members, and stiffening base plates.

Subsequent investigations by the NRC, and design reviews by PG&E and their consultant have identified a number of additional design concerns. These include: failure to use the latest revision of the vertical response spectra in design of conduit and cable tray supports; incorrect weight distribution used to determine the containment annulus vertical seismic response spectral curves; erroneous spectra used to complete the safety injection piping problem; and two small bore piping snubbers required by seismic analyses were not designed or installed. The design reviews are continuing at this time.

Cause or Causes.—The problem related to the use of the wrong diagrams appears to have been caused by the informal manner in which certain data were developed by PG&E and transmitted to URS/Blume and the lack of independent review of these data within PG&E prior to submittal to URS/Blume. Identification of the additional design errors indicates a more general failing in the licensee's design quality controls for service type contractors.

Actions Taken To Prevent Recurrence

Licensee—At the end of September 1981, the licensee verbally requested the services of a consultant, R. L. Cloud Associates, Inc. (R. L. Cloud) to conduct a seismic design review to determine if other errors had been made in the seismic design of Diablo Canyon Unit 1. This request was subsequently formalized by the licensee with the issuance of a contract to R. L. Cloud.

NRC—In October 1981, the NRC conducted a special inspection (NUREG 0862, Issue 1) at the PG&E URS/Blume offices in San Francisco, California to evaluate the quality assurance programs and other management control systems in effect at PG&E and at URS/Blume during the period from 1970 to present; the extent to which these quality assurance programs and management control systems were implemented as they relate to the development, transmittal, and use of safety-related design information; and, how the identified seismic problems involving the Diablo Canyon containment building annulus areas were caused and subsequently discovered. The results of this special inspection indicated, among other things, that required quality controls were not imposed upon PG&E's safety-related, service type contractors until late 1977 or early 1978; and, many of the work activities performed by PG&E with regard to the URS/Blume contract were performed in an informal manner.

On November 19, 1981, an order was issued by the Commission which suspended License No. DPR-76. DPR-76 had been issued on September 22, 1981, and had authorized fuel loading and the conduct of tests at up to five percent of rated power at Diablo Canyon Unit 1. This order, in conjunction with a letter from the NRC Office of Nuclear Reactor Regulation, defined what would be required from PG&E prior to start of fuel loading and prior to power operation above five percent power at Diablo Canyon Unit 1. These requirements included the completion of an independent design verification program for seismic related service contracts. In conjunction with this the licensee was directed to submit a detailed program plan for conducting the design verification and to supply information that demonstrates the independence of the companies proposed to conduct the independent verification. The licensee has submitted a program plan and information regarding the independence of the contractor (R. L. Cloud) selected by the licensee. Prior to an NRC decision on the acceptability of the program plan and the designated

independent contractor an additional issue arose. This issue involves the licensee's review and comment on draft editions of the independent consultant's report prior to the submittal of the report to the NRC, and statements made by licensee representatives to the NRC which led the NRC to believe that the licensee had not seen drafts of the report. The issue was the subject of an NRC investigation. Findings of this investigation are contained in NUREGS 0862, Issues 2 and 3. On February 11, 1982, the NRC issued a Notice of Violation to the licensee concerning a material false statement.

On March 4, 1982 the Commission endorsed the NRC staff position on the design reevaluation plan and the proposed reevaluation contractor (R. L. Cloud Associates). This position calls for a larger, qualified, architect-engineer firm to have lead responsibility for the reevaluation program, as well as verification of corrective actions. The use of a larger firm assures greater financial independence of the reevaluation contractor from the licensee. The position permits acceptance of work performed by the original contractor, if the new contractor evaluates the work and finds it satisfactory.

The information contained herein is current as of March 4, 1982. Future reports on the acceptability of the program plan and the independent contractor will be made, as appropriate, in the Quarterly Report to Congress on Abnormal Occurrences (NUREG-0090 Series).

Dated at Washington, D.C., this 6th day of April 1982.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-9713 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358A]

**Cincinnati Gas & Electric, et al.
(Zimmer Nuclear Power Station, Unit 1)**

Notice is hereby given that Buckeye Power, Inc. has requested reevaluation by the Director of Nuclear Reactor Regulation that no significant antitrust changes have occurred since the construction permit review of the Zimmer Application. After further review by the staff, I have determined not to change my initial finding.

A copy of my initial finding, the request for reevaluation, and my reevaluation is available for public examination and copying for a fee at the Commission's Public Document Room,

1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 2nd day of April, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-9705 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237 and 50-249]

**Commonwealth Edison Co.; Issuance
of Amendments To Operating
Licenses**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Provisional Operating License No. DPR-19 and Amendment No. 60 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Units 2 and 3 located in Grundy County, Illinois. The amendments are effective as of the date of issuance.

The changes to the Technical Specifications provide for primary containment integrated leak rate test requirements and schedules consistent with Appendix J to 10 CFR Part 50. The changes also provide for direct references and use of Appendix J methodology and terminology.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 30, 1981, (2) Amendment No. 68 to License No. DPR-19 and Amendment No. 60 to License No. DPR-25, and (3) the

Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Directorate, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of April 1982.

For The Nuclear Regulatory Commission.
Domenic B. Vassallo,
Chief, Operating Reactors Branch No. 2,
Division of Licensing

[FR Doc. 82-9706 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of Big Rock Point Plant (facility) located in Charlevoix County, MI. This amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which pertain to reactor vessel pressure-temperature limits.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 18, 1981, and supplements thereto dated January 29, 1982, and March 10, 1982, (2)

Amendment No. 52 to License No. DPR-6, (3) The Commission's related Safety Evaluation, and (4) an Exemption to Section IV.A.2.c of Appendix G to 10 CFR Part 50 issued by the Commission on April 2, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of April, 1982.

For the Nuclear Regulatory Commission.
Dennis M. Crutchfield,
Chief, Operating Reactors Branch No. 5,
Division of Licensing.

[FR Doc. 82-9708 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8743]

Conoco, Inc.; Availability of Draft Environmental Statement for the Sand Rock Mill Project in Campbell County, Wyo.

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (DES) prepared by the Commission's Office of Nuclear Material Safety and Safeguards, related to operation of the Sand Rock Mill Project located in southwestern Campbell County, Wyoming is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. Conoco, Incorporated (the Applicant) has applied under Docket No. 40-8743 for a Source and Byproduct Material License for approval of a conventional sulfuric acid leach mill to process a maximum of 3000 MT of uranium ore a day. The DES is being provided to the State Planning Coordinator, Office of the Governor, 2320 Capitol Avenue, Cheyenne, Wyoming 82202 and the Campbell County Public Library, Gillette, Wyoming. Requests for copies of the Draft Environmental Statement (identified as NUREG-0889) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Division of Technical Information and Document Control.

The Applicant's Environmental Report and supplements are also available for

public inspection at the above-designated locations. Notice of the availability of the Applicant's Environmental Report was published in the Federal Register on September 8, 1980 (45 FR 59232).

Interested persons may submit written comments on the DES for the Commission's consideration to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Uranium Recovery Licensing Branch. Federal, State and local agencies are being provided with copies of the document. All comments received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. Comments are due by May 24, 1982. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the Federal Register.

Dated at Silver Spring, Md., this 25th day of March.

For the Nuclear Regulatory Commission.
Ross A. Scarano,
Chief, Uranium Recovery Licensing Branch,
Division of Waste Management.

[FR Doc. 82-9707 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment changes the allowable test time for solid state protection system instrumentation channels and the purge and exhaust valve isolation requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant-hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 9, 1981, (2) Amendment No. 50 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the B. F. Jones Memorial Library, 63 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of April 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1,
Division of Licensing.

[FR Doc. 82-9709 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to extend the Maximum Average Planar Linear Heat Generation Rate limits for the 7x7 (types 2 and 3) and the 8x8 (types 8D250, 8D274L, P8DRB265L, 8DRB283, and P8DRB283) fuel assemblies for exposure values beyond the 30,000 megawatt days per short ton of uranium currently in the Technical Specifications to 40,000 megawatt days per short ton.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 31, 1981, (2) Amendment No. 78 to License No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Auburn Public Library, 118-15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 1st day of April 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2,
Division of Licensing.

[FR Doc. 82-9711 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 5-260, and 50-296]

Tennessee Valley Authority Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 82 to Facility Operating License No. DPR-33, Amendment No. 79 to Facility Operating License No. DPR-52, and Amendment No. 53 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2, and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These changes to the Technical Specifications clarify the definition of secondary containment integrity.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 24, 1981, as supplemented by letters dated April 29, 1981 and May 13, 1981, (2) Amendment No. 82 to License No. DPR-33, Amendment No. 79 to License No. DPR-52, and Amendment No. 53 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama

[Docket No. 50-382-OL]

Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3); Order (Resuming Hearings)

April 5, 1982.

The evidentiary hearings will be resumed on May 3 to receive evidence regarding the application of Louisiana Power and Light Company to operate the Waterford Steam Electric Station, Unit 3, and will continue on weekdays through May 14, 1982 at the following location: U.S. Court of Appeals, 5th Circuit, East Courtroom, Room 223, 600 Camp Street, New Orleans, Louisiana 70130-3479.

These formal evidentiary sessions will begin at 9:00 a.m. and recess at 5:00 p.m.

The public is invited to attend these hearing sessions.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Administrative Judge.

[FR Doc. 82-9710 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 1st day of April 1982.

For the Nuclear Regulatory Commission.
Domenic B. Vassallo,
Chief, Operating Reactors Branch No. 2,
Division of Licensing.

[FR Doc. 82-9712 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Qualification Program for Safety Related Equipment; Cancellation

The ACRS Subcommittee on Qualification Program for Safety Related Equipment scheduled for April 16, 1982 has been *cancelled*. This meeting was published March 31, 1982 (FR 47 13613).

Dated: April 5, 1982

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 82-9704 Filed 4-8-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Procurement of Architect-Engineer Services

March 30, 1982.

Memorandum to heads of executive departments and agencies and to OFPP agency and departmental contacts.

Subject: Procurement of Architect-Engineer Services.

My memorandum of January 18, 1982, copy attached, was issued to clarify existing policy with respect to procurement of professional A-E services pursuant to the procedures of the Brooks Act (Pub. L. 92-852). Since issuance of the memorandum, a number of comments and questions have been received which indicate the need for additional guidance in this area. Accordingly, I request that any changes in agency and departmental procurement regulations resulting from the January 18 memorandum be held in abeyance until further information is developed to clarify this matter. In this regard, Federal agencies and other parties interested in the procurement of A-E services are invited to submit comments concerning the application of the Brooks Act and my January 18, 1982 memorandum. Comments should be

submitted to the Office of Federal Procurement Policy, attention Mr. Charles Clark by June 30, 1982.

Donald E. Sowle,

Administrator.

January 18, 1982.

Memorandum to Heads of Executive Departments and Agencies and to OFPP Agency and Departmental Contacts

Subject: Procurement of Architect-Engineer Services

A recent review of the synopses appearing in Section R of the Commerce Business Daily (the Architect-Engineer section) indicates that several agencies are using the Public Law 92-582 (Brooks Bill) process to procure professional services other than professional architect-engineer services.

The statutory definition of professional architect-engineer services contained in Public Law 92-582 has been further defined in Comptroller General Decision B-184770 of March 9, 1977, as those services that generally require performance by a licensed architect or engineer and which concern Federal construction and related programs such as alterations and renovation projects. The use of the Public Law 92-582 procurement process should be limited to those services meeting the Comptroller General's definition. Such services normally involved or are incident to the preparation or submission of designs, plans, drawings or specifications for construction projects.

Services performed by architects or engineers other than those defined in the Comptroller General's decision as "professional architect-engineer services" should be procured pursuant to standard procurement procedures; i.e., price should be considered in the selection process. The amount or degree of consideration given to price in the selection process will, of course, vary depending on the nature of the procurement and should be clearly specified in the selection and evaluation criteria formulated by the contracting officer.

Donald E. Sowle,

Administrator.

[FR Doc. 82-9688 Filed 4-8-82; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22446; 70-6724]

Columbia and Southern Ohio Electric Co.; Proposal To Issue and Sell First Mortgage Bonds

April 5, 1982.

Columbus and Southern Ohio Electric Company ("Company"), 180 East Broad Street, Columbus, Ohio 43215, a public utility subsidiary of American Electric Power Company ("AEP"), a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public

Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

The Company proposes to issue and sell up to \$65,000,000 aggregate principal amount of its first mortgage bonds, in one or more series, each such series having a maturity of not less than 5 years and not more than 30 years. The interest rate (which will be expressed in a multiple of $\frac{1}{8}$ of 1%) and the price to be paid to the Company for the bonds (which shall not be less than 100%, unless the Company shall authorize a lower percentage not less than 99%, and shall not exceed 102- $\frac{3}{4}$ %) will be determined by competitive bidding. If market conditions should not be propitious for the sale of the Bonds on a competitive bidding basis, the Company proposes to amend this application to provide for their sale on another basis.

The terms of the bonds will preclude the Company from redeeming any such bond prior to five years subsequent to the first day of the month in which the bonds are first authenticated and delivered, if such redemption is for the purpose of refunding such bond through the use, directly or indirectly, of borrowed funds at an effective interest cost of less than the effective interest cost to the Company of such bonds. It is expected that the successful bidders for the bonds will make a public offering of the same. It is proposed that the Company decide whether there should be more than one series, and on the maturity of each series of the bonds at a subsequent date and notify prospective bidders by telegram of its decision reasonably in advance of, but in any event not less than 72 hours prior to, the time of the bidding.

The proceeds of the bonds, together with cash capital contributions which may be made by AEP and any other funds which may become available to the Company, will be used to repay unsecured short-term indebtedness of the Company consisting of short-term notes and commercial paper, to repay maturing long-term debt, to reimburse the Company's treasury for expenditures incurred in connection with the Company's construction program, and for other corporate purposes.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 30, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an

attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-9642 Filed 4-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12356; 812-5098]

Equitable Life Assurance Society of the United States and Separate Accounts A and E of the Equitable Life Assurance Society of the United States; Application for an Order Exempting Applicants

April 5, 1982.

Notice is hereby given that The Equitable Life Assurance Society of the United States ("Equitable"), a mutual life insurance company established under the laws of the State of New York, and Equitable's Separate Account A and Separate Account E (collectively "Applicants") 1285 Avenue of the Americas, New York, N.Y. 10019, each a separate account registered under the investment Company Act of 1940 ("Act") as an open-end management investment company, filed an application on February 1, 1982, pursuant to Section 6(c) of the Act for an order exempting Applicants from Sections 2(a)(32), 2(a)(35), 22(c), 22(d), 27(c)(1) and 27(d) of the Act and Rule 22c-1 thereunder to the extent necessary, to permit the transactions described below. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Background

Since August 1981, Equitable has offered a series of group deferred variable annuity contracts ("new Contracts") that provide for a contingent deferred withdrawal charge ("withdrawal charge") to be imposed against the participant's contract value in the event of certain surrenders. The new Contracts are designed exclusively to find certain types of tax-favored retirement plans. Under the terms of the new Contracts, a participant may allocate all or a portion of his or her

contributions either to Separate Account A or to Equitable's general account. Allocations to Separate Account A are invested primarily in equity securities while allocations to Equitable's general account are credited with interest at rates determined by Equitable and guaranteed never to decline below a certain minimum. On July 13, 1981, Equitable and Separate Account A obtained an order providing, among other things, exemptions to the extent herein requested (except with respect to Section 22(d) of the Act) (Investment Company Act Release No. 11858) ("Prior order"). The prior order also granted approval, under Section 11(a) of the Act, of Equitable's offer of an exchange providing for "conversions" of certain existing annuity contracts by exchange, endorsement or separate purchaser for a new Contract. Applicants state that Separate Account A is an "Applicant" under the instant application only to the extent that Equitable's proposed method of imposing charges on withdrawals from Separate Account E, when so-called "converted monies" are held in Separate Account A or Equitable's general account, may be deemed to require a modification of the prior order. Equitable states that it intends to revise its new Contracts to include Separate Account E as an additional investment account to which contributions may be allocated by participants (referred to herein as the "revised Contracts"). Allocations to Separate Account E will be invested primarily in high quality short-term money market investments.

Withdrawal Charge

Applicants state that participants under the revised Contracts will be subject to all provisions of the revised Contracts, including the withdrawal charge, whether allocations are made to Separate Account A, Separate Account E, or to Equitable's general account. Applicants state that the withdrawal charge applicable to withdrawals from Separate Account E is, in effect, identical to the withdrawal charge approved in the prior order and applicable to withdrawals from Separate Account A and from the general account as described in the application relating to the prior order. Except as noted below, withdrawals from Separate Account E will be assessed a withdrawal charge, as follows:

(1) Withdrawals of all contributions made to Separate Account E and appreciation thereon will be subject to a charge of 6% of the amount withdrawn, except that no withdrawal charge will be applicable to appreciation on converted monies (essentially, monies

associated with the transactions noted in (a) and (b) below), or to any contributions by participants who owned certain Equitable annuity contracts designed for the same market as that in which the revised Contracts are to be offered, and, by March 31, 1982, have (a) converted directly, or by endorsement of an earlier Equitable withdrawal charge contract, into a new Contract, or (b) purchased a new Contract in addition to their then outstanding contract, all as described in the application relating to the prior order.

(2) If, at any time, converted monies are held in Separate Account A or Equitable's general account (no converted monies will be held in Separate Account E), the charge described in paragraph (1) above, with respect to withdrawals from Separate Account E up to \$10,000, will be 2%, instead of 6%, and no further withdrawal charge will be imposed on withdrawals from Separate Account E which do not, in the aggregate, exceed the amount of converted monies originally held under a revised Contract, as reduced by the total of withdrawals from Separate Account E, on which 2% charge, or no charge, as described herein, has been imposed and by withdrawals of converted monies from Separate Account A and the general account. Withdrawals from Separate Account E of amounts in excess of converted monies originally held under a revised Contract, reduced as aforesaid, will be subject to the 6% charge described in paragraph (1) above.

(3) For purposes of the withdrawal charge imposed on converted monies covered by the prior order, the amount of converted monies originally held under a revised Contract shall be reduced by the amount of any withdrawals from Separate Account E which are charged at the 2% rate, or are subject to no further withdrawal charge, as described in paragraph (2) above.

(4) At any time a withdrawal from Separate Account E is made, Equitable will impose a maximum limitation on the components of the withdrawal charge described in paragraphs (1) and (2) above, so that the withdrawal charge will not exceed the sum of the charges made at the 2% rate, described in paragraph (2) above, during the current participation year and the nine completed participation years immediately preceding the withdrawal, plus 8% of total contributions made under the revised Contract during the current participation year and the nine completed participation years immediately preceding the withdrawal.

To the extent imposed, the charge described in paragraph (2) above will be applied to conversion expenses Equitable incurred in connection with the exchange privilege, as described in the application relating to the prior order. All other amounts derived from withdrawal charges will be used to cover sales expenses. No withdrawal charge will be assessed in the event of a withdrawal under certain circumstances enumerated in the revised Contracts.

Further, Equitable will impose an annual administrative charge with respect to the revised Contracts equal to the lesser of 2% of the participant's contract value or \$30. Equitable will also impose an annual asset charge on Separate Account E, as well as Separate Account A, equal to 1.75% (.15% investment advisory fee, .35% financial accounting, .35% mortality risk for minimum death benefit and annuity rate guarantee, and .90% expenses and expense risk).

Applicants represent that the administrative charges under the revised Contracts are reasonable, are in amounts not exceeding anticipated administrative expenses, and are not properly chargeable to sales or promotional activities within the meaning of the Act.

Relief Requested

Section 2(a)(35)

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants state that because of the timing of the proposed withdrawal charge, that charge may not be encompassed by the definition of sales load in Section 2(a)(35). Applicants maintain, however, that, like a traditional front-end sales load, the withdrawal charge is designed to cover only expenses associated with the offer and sale of units, including commissions paid to sales personnel, promotional expenses and sales administration expenses. Applicants assert that altering the timing of the charge for sales expenses provides participants under the revised Contracts with certain benefits that would not be available if a traditional front-end sales load were imposed. Therefore, because the withdrawal charge is the functional equivalent of a sales load and provides

participants under the revised Contracts with certain benefits, Applicants request an exemption from Section 2(a)(35), to the extent deemed necessary, to permit the imposition of the proposed withdrawal charge.

Sections 2(a)(32) and 27(c)(1)

Section 2(a)(32) of the Act defines a "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive "approximately his proportionate share" of the issuer's current net assets, or the cash equivalent thereof. Section 27(c)(1) provides that no issuer of a periodic payment plan certificate shall sell such certificate unless the certificate is a "redeemable security." Applicants assert that although Section 2(a)(32) does not specifically contemplate the imposition of a sales charge at the time of redemption, such a charge is not necessarily inconsistent with the definition of a redeemable security. Applicants further assert that Congress did not intend that such a charge should be viewed as inconsistent with the concept of "proportionate share" under Sections 2(a)(32) and 27(c)(1). Applicants also submit that, since a participant would incur no withdrawal charge if he or she continued with the revised Contract for retirement purposes, the withdrawal charge would be consistent with the maintenance of retirement plans in accordance with congressionally declared national policy. On these grounds, Applicants request an exemption from Sections 2(a)(32) and 27(c)(1), to the extent deemed necessary, to permit the imposition of a withdrawal charge under the revised Contracts.

Section 22(c) and Rule 22c-1

Rule 22c-1, promulgated under Section 22(c) of the Act, in relevant part, prohibits a registered investment company which issues a redeemable security from redeeming such security except at a price based on the current net asset value of such security which is next computed after receipt of the tender of such security. Applicants state that, for the reasons set forth above in connection with Sections 2(a)(32) and 27(c)(1), the imposition of the withdrawal charge is not inconsistent with that aspect of Rule 22c-1 which requires redemption to be at a price based on the current net asset value. Regarding the timing requirement of Rule 22c-1, Applicants state that, consistent with their current procedures, they will determine the value of any units redeemed on behalf of a participant on the basis of current net

asset value which is next computed after receipt of the withdrawal request. Applicants believe that the withdrawal charge is wholly consistent with the policy and purposes of Rule 22c-1. However, in order to avoid any question regarding complete compliance with the Act, Applicants request an exemption from Section 22(c) and Rule 22c-1, to the extent deemed necessary, to permit the deduction of the withdrawal charge from the value of a participant's individual account upon withdrawal.

Section 27(d)

Section 27(d) of the Act requires that a holder of a periodic payment plan certificate who redeems the certificate within eighteen months of issuance receive (1) the value of his or her account and (2) an amount equal to the excess paid for sales expenses which is over 15% of the purchase payments made by the certificate holder. Applicants state that their request for relief with respect to the first requirement under Section 27(d) is addressed above in connection with their request for relief from Sections 2(a)(32) and 27(c)(1). As to the second requirement under Section 27(d), Applicants assert that, during the eighteen-month period addressed in Section 27(d), the maximum rate for the withdrawal charge for sales expenses would be only 8% of purchase payments. Further, Applicants state that the withdrawal charge is consistent with the purpose of Section 27(d) as evidenced in the legislative history of that section. Therefore, Applicants request an exemption from Section 27(d), to the extent deemed necessary, to permit imposition of the proposed withdrawal charge.

Exemptive Requests Regarding Withdrawal Charge for Recovery of Conversion Expenses

Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1) and 27(d) of the Act and Rule 22c-1

As described above, a portion of Applicants' proposed withdrawal charge on withdrawals from Separate Account E is related to the conversion expenses of the exchange privilege, rather than sales expenses. Applicants believe that the portion of the withdrawal charge which covers conversion expenses may raise some of the same questions under the Act as are raised by that portion of the withdrawal charge which is designated to recover sales expenses. Therefore, to the extent applicable, Applicants request exemptions from Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1) and 27(d) of the Act and Rule 22c-1

thereunder, for the reasons set forth above in connection with those sections, to the extent necessary to permit the imposition of the 2% charge, or no withdrawal charge, on Separate Account E withdrawals at any time when converted monies are held in Separate Account A or Equitable's general account.

Section 22(d)

Applicants state that they have considered the variations in the withdrawal charge applicable to Separate Account E, which may arise only if converted monies are held under the revised Contract, in light of the first sentence of Section 22(d) of the Act. Section 22(d) prohibits a registered investment company from selling any redeemable security issued by it to the public except at a current public offering price described in the prospectus. Applicants submit that, in the circumstances presented, the second sentence of Section 22(d), which provides that the subsection may not prevent a sale made pursuant to an offer of exchange permitted by Section 11 of the Act, should remove any question arising under Section 22(d). As noted above, the prior order of the Commission, pursuant to Section 11(a), permitted the offer of the exchange privilege. Applicants believe that, as a regulatory matter, if not as a matter of strict legal interpretation, the charge applicable to withdrawals from Separate Account E when converted monies are held under a revised Contract should be treated the same as the charge for conversion expenses under the new Contracts, which is covered by the Commission's prior order, and, therefore, not subject to section 22(d). Applicants state that the reduced charge on withdrawals from Separate Account E is derived solely from the presence under the revised Contract of converted monies, and that the charge will only be applied to cover conversion expenses. Applicants request an exemption from Section 22(d) to the extent necessary to permit the imposition of the 2% charge, or no charge, on withdrawals from Separate Account E when converted monies are held in Separate Account A or Equitable's general account.

Request for Modification of the Prior Order

Applicants note that the amount of converted monies held in Separate Account A and Equitable's general account will be reduced to the extent that withdrawals at a 2% charge, or no charge, are made from Separate Account E when such monies are held under the

revised Contracts. These reductions will result in a corresponding increase in amounts held in Separate Account A or the general account which are subject to the 6% withdrawal charge applicable under the conditions described in the previous application. Applicants further state, however, that the total of converted monies originally held under a revised Contract will only be subject to the 2% withdrawal charge, or no withdrawal charge, consistent with the previous application.

In order to avoid any question as to compliance with, or the effectiveness of, the prior order granted by the Commission to Separate Account A and Equitable. Applicants request that such order be modified to the extent necessary to permit the imposition of the withdrawal charge in the manner described in their application.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the act, an order disposing of the application will be issued as of course following April 28, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including

the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-9644 Filed 4-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12352; 812-5060]

Franklin Life Insurance Co. et al.; Filing of Application for an Order Approving Certain Offers of Exchange and Granting an Exemption

April 5, 1982.

Notice is hereby given that The Franklin Life Insurance Company ("The Franklin"), Franklin Life Variable Annuity Fund A ("Fund A"), Franklin Life Variable Annuity Fund B ("Fund B"), and Franklin Financial Services Corporation ("Franklin Financial") (together, "Applicants"), Franklin Square, Springfield, IL 62713, filed an application on December 23, 1981, and an amendment thereto on April 2, 1982, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from Section 22(d) of the Act and pursuant to Section 11(a) of the Act approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

The Franklin is a stock life insurance company organized under the laws of Illinois. Fund A and Fund B were established as separate accounts of The Franklin, which serves as their respective investment adviser. Fund A offers tax qualified variable annuity contracts ("Fund A Contracts") and Fund B offers non tax qualified variable annuity contracts ("Fund B Contracts") (together, "Contracts"). Franklin Financial, a wholly owned subsidiary of The Franklin, is the principal underwriter of the Contracts. Fund A and Fund B are registered under the Act as diversified open-end management investment companies.

The Fund A Contracts provide that deductions will be made as follows for sales and administration expenses:

(1) Under single stipulated payment Fund A Contracts, a deduction of 4% (with a maximum of \$100) is made from the single payment for administrative expenses. In addition, a sales deduction of 5% of the total payment is made from the payment.

(2) Under periodic stipulated payment Fund A Contracts, a deduction of 6% is made from each payment for sales expenses and 3% for administrative expenses.

The Fund B Contracts provide that deductions will be made as follows for sales and administrative expenses:

(1) Under single stipulated payment Fund B Contracts, a deduction of \$100 is made from the single payment for administrative expenses. In addition, a sales deduction of 5% of the total payment is made from the single payment. A minimum single payment under a Fund B Contract is \$2,500.

(2) Under periodic stipulated payment Fund B Contracts, a sales and administration deduction is made from each payment. The amount of the deduction varies depending upon the length of the stipulated payment period agreed upon in the annuity contract and the contract year with respect to which a payment is scheduled to be made. The deductions are applied whether the payment is made on time or in arrears. Prepayments are not accepted. If the stipulated payment period of a Fund B Contract is 12 or more years, the sales deduction is 15% of a purchase payment made in the first contract year, 5% in years 2 to 5, 3% in years 6 to 10 and 1% thereafter; the administration deduction is 0% in the first contract year, 10% in years 2 to 4, 5% in year 5 and 3% thereafter. If the stipulated payment period is 9 to 11 years, the sales deduction is 10% in the first contract year, 5% in years 2 to 4 and 3% thereafter; the administration deduction is 5% in the first contract year, 10% in year 2, 5% in years 3 and 4 and 3% thereafter. If the stipulated payment period is 6 to 8 years, the sales deduction is 6% in the first contract year, 5% in years 2 to 4 and 3% thereafter; the administration deduction is 5% in the first contract year, 6% in year 2, 5% in years 3 to 4 and 3% thereafter. If the stipulated payment period is 2 to 5 years, the sales deduction is 4% in years 1 to 4 and 3% in year 5 and the administration deduction is 5% in years 1 to 4 and 3% thereafter.

Applicants assert that the administrative expense deductions of Fund A and Fund B are designed to cover the expense of administering the Contracts and the Funds, and that The Franklin does not expect to realize a profit by virtue of these deductions.

Franklin Life Money Market Variable Annuity Fund C ("Fund C"), another separate account of The Franklin, is also registered under the Act as an open-end diversified management investment company. The contracts participating in Fund C ("Fund C Contracts") provide for

a contingent deferred sales charge to cover expenses. Upon redemption of a periodic stipulated payment Fund C Contract, the charges determined as follows are applied against the lesser of (a) the cash value of the part of the Fund C Contract redeemed or (b) the payments made during the immediately preceding 72 months:

Contract year	Percentage charge	
	Total redemption	Partial redemption
1	8	8
2	8	8
3	8	8
4	6	6
5	4	4
6	2	4
7 and thereafter	0	4

Upon redemption of a single stipulated payment Fund C Contract, the charges determined as follows are applied against the lesser of (a) the cash value of the part of the Fund C Contract redeemed or (b) the payment:

Contract year	Percentage charge	
	Total redemption	Partial redemption
1	6	6
2	6	6
3	4	4
4	2	4
5 and thereafter	0	4

Contingent deferred sales charges are not applied to partial redemptions of amounts in any contract year up to 10% of cash value, to distributions made upon the death of the variable annuitant or to certain transfers described below. Partial redemptions must be in amounts of no less than \$500. In no event will the total amount of contingent deferred sales charges paid exceed 9% of total payments made under such Funds C Contract in the first twelve contract years (or such fewer contract years over which such payments are made).

The Franklin, Fund C, and Franklin Financial sought and received an exemptive order of the Commission in connection with the operation of Fund C (Investment Company Act Release No. 12150, January 8, 1982). That order pursuant to Section 6(c) of the Act granted exemptions to the extent requested from Sections 2(a)(32), 2(a)(35), 17(f)(3), 22(c), 22(d), 22(e), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and from Rules 17f-2 and 22c-1 thereunder and pursuant to Section 11 approved certain offers of exchange.

Applicants propose to offer the following transfers to and from Fund A and Fund B: (1) If a Fund C Contract is

fully redeemed and its full cash value is immediately applied to the purchase of a Fund A or Fund B Contract, any sales deductions of the Fund A or Fund B Contract so purchased will be applied to amounts transferred as if such amounts were a single stipulated payment under such Contract (however, total sales deductions on such transferred amounts will not exceed 9% of all payments made under the Fund C Contract with respect to the amounts transferred); *Provided, however, that if the transfer occurs after the relevant contract year after which no contingent deferred sales charge would apply to a total redemption of the Fund C Contract, The Franklin will waive the sales deductions otherwise imposed by Fund A or Fund B with respect to such transferred funds.* In addition, in all instances of permitted transfers set forth above, the administrative expense deductions otherwise imposed by Fund A or Fund B, as the case maybe, will be waived with respect to such transferred funds. However, any new periodic stipulated payments made on a Fund A or Fund B Contract after such transfer will be subject to the normal sales and administrative expense deductions applicable to periodic stipulated payments under such Fund A or Fund B Contract. (2) A Fund C Contract may be purchased with the full proceeds of a totally redeemed Fund A or Fund B Contract prior to the annuity payment date thereunder and subject to the minimum investment limitations of the Fund C Contract. The contingent deferred sales charge under the Fund C Contract will be waived with respect to funds so transferred thereto and amounts representing the appreciated value thereof. In addition, the administrative expense deduction of the Fund C Contract will be waived with respect to the funds so transferred thereto. In calculating the contingent deferred sales charge applicable in such instances, transferred funds (with respect to which such charges are waived) will be considered to have been redeemed first. Upon redemptions under a periodic stipulated payment Fund C Contract, however, a contingent deferred sales charge will be applied with respect to any new periodic stipulated payments made on the Fund C Contract after such transfer is made; such charge will be applied against the lesser of (a) the cash value of that part of the Fund C Contract redeemed represented by such new periodic stipulated payments or (b) the new payments made during the immediately preceding 72 months represented by that part of the Fund C Contract redeemed.

Any new periodic payments made on the Fund C Contract after the transfer is made will be subject to the applicable administrative expense deduction of such Contract.

Request for Exemption from Section 22(d)

Section 22(d) provides, in relevant part, that "[n]o registered investment company shall sell any redeemable security issued by it * * * except * * * at a current public offering price described in the prospectus * * *." As set forth above, certain transfers to Fund A and Fund B from Fund C Contracts may be made without imposition of normally charged sales and administrative expense deductions of Fund A and Fund B. These transfers do not involve selling efforts by The Franklin comparable to those involved in selling new variable annuity contracts or other contracts; consequently, Applicants assert that it is appropriate that any duplication of sales charges and deductions be avoided on the transferred amounts. Similarly, they state that it is appropriate to avoid the duplication of administrative expense deductions, which will already have been paid on any transferred amounts. Applicants represent that the prospectuses of Fund A and Fund B, respectively, will fully disclose these instances of waiver of imposition of Fund A and Fund B sales and administrative expense deductions, and potential Fund A and Fund B contract owners will thus be fully aware of such waiver provisions in the Contracts before making any investment decision to purchase the Contracts.

To remove any question of compliance with the Act, Applicants request an exemption from the provisions of Section 22(d), to the extent necessary, to permit The Franklin, Fund A, Fund B and Franklin Financial to sell Contracts which contain provisions for waiver of the imposition of sales and administrative expense deductions in the specified instances set forth above.

Request for Approval Under Section 11

Section 11(a) of the Act provides, in relevant part, as follows:

It shall be unlawful for any registered open-end company or a principal underwriter for such a company to make or cause to be made and offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission * * *.

Applicants propose that certain transfer between Fund A and Fund B Contracts and Fund C Contracts may be made without the imposition of sales deductions, contingent deferred sales charges and administrative expense deductions to the extent set forth above. Applicants do not concede that Section 11(a) is applicable to such opportunities for transfer nor that the transfers fall within the meaning of "exchange" as used therein or that the transfers are "on any basis other than the relative net asset values of the respective securities to be exchanged." However, in order to avoid any question of compliance with the Act, Applicants request that the Commission issue an order of approval pursuant to Section 11(a), to the extent deemed necessary, to permit the transfers as set forth above.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purpose fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person, may, not later than April 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following April 28, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is

ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-9645 Filed 4-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12355; 812-5124]

General American Life Insurance Co. and General American Separate Account No. 2; Filing of Application for an Order Granting Exemptions From Certain Provisions

April 5, 1982.

Notice is hereby given that General American Life Insurance Company ("Company"), a mutual life insurance company organized under the laws of Missouri, and General American Separate Account No. 2 ("Account"), 700 Market Street, St. Louis, MO 63101, a separate account of the Company registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company (collectively "Applicants"), filed an application on March 1, 1982, and amendments thereto on March 29, 1982 and April 5, 1982, for an order of the Commission exempting Applicants from provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the offer of contracts with the contingent deferred sales charge arrangement described in the application. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

The Account was established on October 22, 1970 as a facility through which the Company could set aside and invest assets attributable to certain variable annuity contracts ("Existing Contracts"). Commencing May 1, 1982, Applicants propose to offer new variable annuity contracts ("New Contracts") with substantially the same terms as the Existing Contracts except for certain variations in the schedules of charges under the New Contracts.

Under the Existing Contracts, charges are made as follows: charges to cover investment management services (.25% annually) and mortality and expense assurances (1% annually, approximately .8% for mortality assurances and .2% for expense assurances) are made each

business day as a percentage of the accumulated value of the contract; a charge of \$10 for administrative services is assessed annually against the accumulated value of each contract; and, a sales deduction is made upon receipt of each payment under the contracts at a rate which will never exceed the percentages shown in the following schedule:

Amount of payments during any existing contract year	Deduction for sales (percent)	Percentage of net amount invested
First \$25,000.....	4.75	4.99
Excess over \$25,000.....	1	1.01

Under the New Contracts, Applicants propose to impose the same charges for investment management services and mortality and expense assurances as under the Existing contracts, but Applicants propose to eliminate both the charge for administrative services and the sales deduction. In place of the sales deduction, Applicants propose to deduct a contingent deferred sales charge from the proceeds of certain redemptions. Such sales charge will not be levied, however, if the contract owner annuitizes the accumulated value after five years of participation in the New Contract, dies, or becomes totally disabled. The schedule of contingent deferred sales charges proposed by Applicants is as follows:

Individual account New contract year	Percentage contingent deferred sales charge
First.....	9
Second.....	8
Third.....	7
Fourth.....	6
Fifth.....	5
Sixth.....	4
Seventh.....	3
Eighth.....	2
Ninth.....	1
Tenth and following.....	0

The Company also proposes to offer the new Contracts to its officers and full time employees but with a contingent deferred sales charge of six percent in the first contract year, declining by one percent per year until it disappears. The amount of the contingent deferred sales charge (if any) will be calculated by determining the date on which the New Contract was issued and applying the appropriate percentage as indicated by the above chart to the amount of the redemption. However, the amount of

such charge will in no event ever exceed 9% of the aggregate purchase payments made by the purchaser.

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Because the nature of the sales charge may raise a question as to whether it meets the technical definition of Section 2(a)(35), Applicants request an exemption from Section 2(a)(35) to the extent necessary to permit the offer of the New Contracts with the described contingent deferred sales charge arrangement.

Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security. In order to avoid any doubt about the possibility of an adverse interpretation of Section 22(c) of Rule 22c-1, Applicants request an exemption from those provisions to the extent necessary to permit the offer of the New Contracts with the described contingent deferred sales charge.

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter for such company, to sell any such certificate unless it is a "redeemable security." Section 2(a)(32) of the Act, in substance, defines a "redeemable security" as a security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. In order to resolve any issues of doubt concerning the applicability of these sections, Applicants request an order exempting them from the provisions of Sections 2(a)(32) and 27(c)(1) to the extent necessary to permit the offer of the New Contracts with the described contingent deferred sales charge.

Section 27(d) of the Act, in substance, requires that the holder of a periodic payment plan certificate be able to surrender his certificate within a specified time and receive the value of his account and the return of sales charges in excess of a certain percentage. Applicants seek an exemption from the provisions of

Section 27(d) to the extent necessary to permit the offer of the New Contracts with the described contingent deferred sales charge.

Section 27(c)(2) of the Act provides, in substance, that the issuer of a periodic payment plan certificate and a depositor or underwriter for such an issuer are prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than the sales load, on the certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) of the Act and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) of the Act provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants have previously received an order of the Commission (Investment Company Act Release No. 6552, June 3, 1971) exempting them from Section 27(c)(2) of the Act subject to the conditions that: (1) The charges to the variable annuity contract holders for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose; and (2) that the payment of sums and charges out of the assets of the Separate Account shall not be deemed to be exempted from regulation by the Commission by reason of such order: *Provided*, That Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such asset other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges. In order to avoid any possibility that questions might be raised as to the potential applicability of Sections 26(a)(2)(C) and 27(c)(2), Applicants request an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to implement the

proposed transactions involving the payment of contingent deferred sales charges. Applicants consent that any order granting the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) may be subject to the same conditions as Applicants' previous order exempting them from Section 27(c)(2) of the Act.

With respect to their requested relief, Applicants assert that they believe that the imposition of the contingent deferred sales charge is fair and is in the best interests of new contractowners because it permits new contractowners to have the benefit of more of their investment dollars from the time of their payments.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction, or any class or classes or persons, securities, or transactions from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the requested exemption are appropriate and in the public interest, are consistent with the protection of investors, and are consistent with the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than 5:30 p.m., April 28, 1982, submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following April 28, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the

date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-9643 Filed 4-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18619; File No. SR-NSCC-82-5]

Filing of Proposed Rule Change by National Securities Clearing Corp.

April 5, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 26, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change consolidates NSCC's present rules that apparently authorize NSCC to oversee admission of applicants to NSCC and to monitor participant's financial and operational capabilities. Pursuant to those rules, NSCC states that it has developed and has implemented (i) minimum financial and operational standards for applicants to, and participants in, NSCC; (ii) guidelines for requiring applicants and participants that do not meet those minimum standards to provide to NSCC specified further assistances; and (iii) guidelines for monitoring securities issues that NSCC believes are volatile or otherwise present greater than normal financial risk to NSCC and its participants. The proposed rule change makes these standards and guidelines explicit portions of NSCC's rules and procedures. The proposal also makes various non-substantive changes to NSCC's rules. NSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) of the Act in that it will not affect NSCC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the

submission on or before April 30, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-9646 Filed 4-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18624; (SR-NYSE-80-43)]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

April 6, 1982.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10005, submitted on November 3, 1980 and amended on February 8, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend NYSE Rule 60 in an effort to maximize the timely and accurate collection and dissemination of quotation data and the firmness of such data.

The proposed rule change would effect the following three basic changes: (a) Establishment of "modes" in which quotations will be disseminated by the exchange; (b) redefinition of the term "responsible broker-dealer" so that, in most cases where quotes are firm, the specialist would be deemed the responsible broker-dealer for the quotes disseminated by the exchange; and (c) delineation of the specialist's obligation, under certain circumstances, for

assuming responsibility for "erroneous or non-current quotations."

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18506, February 22, 1982) and by publication in the *Federal Register* (47 FR 8713, March 1, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-9692 Filed 4-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12357; (812-5108)]

**Temporary Investment Fund Inc.;
Filing of Application for an Order
Pursuant to Section 6(c) of the Act
Exempting Applicant From the
Provisions of Section 2(a)(41) of the
Act and Rules 2a-4 and 22c-1 Under
the Act**

April 6, 1982.

Notice is hereby given that Temporary Investment Fund, Inc. ("Applicant"), Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on February 9, 1982, and an amendment thereto on March 12, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of the State of Maryland on February 8, 1973. It is a no-load, money market fund offering two classes of shares, Classes A and B, each of which represent interests in one investment portfolio and differ only in that holders of Class A shares receive daily dividends beginning the day after shares are purchased and continuing through the day of redemption while the holders of Class B shares receive daily dividends beginning the same day their shares are purchased and continuing through the day before redemption.

Applicant's investment objective is to seek current income and stability of principal by investing in a portfolio of "money market" instruments consisting of United States Treasury bills; other obligations issued or guaranteed by the federal government, its agencies or instrumentalities; certificates of deposit; bankers' acceptances; and commercial paper (including variable amounts master demand notes). Applicant's portfolio securities may be subject to repurchase agreements. Applicant states that it does not seek profits through short-term trading and usually holds its portfolio securities to maturity. At January 28, 1982, Applicant had net assets of \$4,210,730,000.

Applicant states that it is designed for institutional investors as a convenient means for investing cash reserves in a portfolio of "money market" securities where direct purchase by the investor is economically or operationally impractical.

By valuing Applicant's portfolio securities at amortized cost and declaring dividends daily, Applicant states that its asset value per share will remain constant in the absence of unusual market conditions. According to the application, Applicant currently calculates the net asset value per share of its portfolios based on the penny-rounding method of valuation pursuant to an order of the Commission dated November 28, 1977 (Investment Company Act Release No. 10027).

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender

of such security for redemption or of an order to purchase or to sell such security.

Rule 2a-4 provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order of the Commission, pursuant to Section 6(c) of the Act, to permit Applicant's assets to be valued according to the amortized cost method of valuation. In support of the relief requested, Applicant states that it believes its shareholders would be unfairly treated if Applicant were forced to price its portfolio instruments in a manner which would produce artificial price and yield volatility for instruments which Applicant expects to hold until maturity. Applicant believes that potential investors in Applicant's shares are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost

as described above. On the other hand, Applicant states that it believes that potential investors are vitally concerned that (1) the net asset value of their shares remain stable; and (2) the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis.

By maintaining a portfolio of high quality money market instruments of short-term maturities, Applicant believes that it will be possible to provide the required stability to individuals and institutional investors. Applicant, with the advice of its adviser and based on the adviser's experience, has determined that maintaining an average portfolio maturity of 120 days or less will accomplish the aims of Applicant's investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with that available in the short-term money market.

Applicant's request for exemption is based on its investment policies. Applicant agrees that the following conditions may be imposed in any order of the Commission granting the exemptive relief.

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at \$1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's \$1.00 amortized cost price per share, and the maintenance of records of such review.¹

(b) In the event such deviation from Applicant's \$1.00 amortized cost price per share exceeds one-half of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's \$1.00 amortized cost price per share may result in material dilution or other unfair results to investor or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year (although instruments subject to repurchase agreements may bear longer maturities), nor (b) maintain a dollar weighted average portfolio maturity which exceeds 120 days.²

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will include in the minutes of its board of directors' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase

(ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

² In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

agreements, to those United States dollar-denominated instruments which, as determined by its board of directors, present minimal credit risks, and which are of high quality, as determined by any major rating service, or, in the case of any instruments that are not rated, are of comparable quality, as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Prior to adopting the amortized cost method of valuation, Applicant's board of directors will determine in good faith that in light of characteristics described above, including the conditions to which Applicant must adhere as set forth in any order of the Commission, absent unusual or extraordinary circumstance the amortized cost method of valuing portfolio securities will reflect the fair value of such securities.

On the basis of the foregoing, Applicant submits that granting its requested exemptive relief is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 30, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter,

¹ To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among others, (i) quotations or estimates of market value for individual portfolio instruments, or

including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority,

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-9993 Filed 4-8-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2032]

Kansas; Declaration of Disaster Loan Area

Crawford, Cherokee, Labette and Montgomery Counties in the State of Kansas constitute a disaster area as a result of tornadoes and high winds which occurred on March 15, 1982. Eligible persons, firms and organizations may file applications for assistance due to physical damage until the close of business on June 1, 1982, and for economic injury until the close of business on December 31, 1982, at the address listed below: Disaster Branch Office, Small Business Administration, c/o National Guard Armory, 195 Memorial Drive, Pittsburgh, Kansas 66762, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	15.25
Homeowners without credit available elsewhere	7.625
Businesses with credit available elsewhere	16
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11.50

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the aforementioned offices.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: March 31, 1982.

James C. Sanders,
Administrator.

[FR Doc. 82-9700 Filed 4-8-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2034]

Michigan; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the counties of Berrien and Monroe, Michigan, constitute a disaster loan area because of damage resulting from severe storms and flooding beginning on or about March 12, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 29, 1982, and for economic injury until December 29, 1982, at: Small Business Administration, 477 Michigan Avenue—McNamara Building, Room 515, Detroit, Michigan 48226, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	15 1/4
Homeowners without credit available elsewhere	7 1/2
Businesses with credit available elsewhere	16
Businesses without credit available elsewhere	8
Business (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11 1/2

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the aforementioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: April 2, 1982.

James C. Sanders,
Administrator.

[FR Doc. 82-9701 Filed 4-8-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2033]

Ohio; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the counties of Defiance, Henry, Wood, Paulding and Lucas; excluding that portion of the City of Toledo east of Anthony Wayne Trail (Route 24) and north of Airport Highway (Route 2), constitute a disaster loan area because of damage resulting from severe storms and flooding beginning on March 12,

1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 27, 1982, and for economic injury until December 27, 1982, at: Small Business Administration, AJC Federal Building—Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	15 1/4
Homeowners without credit available elsewhere	7 1/2
Business with credit available elsewhere	16
Business without credit available elsewhere	8
Business (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11 1/2

It should be noted that assistance for agricultural enterprises are the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the aforementioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: March 31, 1982.

James C. Sanders,
Administrator.

[FR Doc. 82-19702 Filed 4-8-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2031]

Oklahoma; Declaration of Disaster Loan Area

Pontotoc, Washington, and the adjacent counties of Osage, Nowata, Seminole and Hughes in the State of Oklahoma constitute a disaster area as a result of damage caused by tornadoes and high winds which occurred on March 15, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 1, 1982, and for economic injury until the close of business on December 31, 1982, at the addresses listed below:

Disaster Branch Office, Small Business Administration, c/o American Red Cross, 1630 East Beverly Street, Ada, Oklahoma 74820

Disaster Branch Office, Small Business Administration, c/o United Way Fund Office, 115 S.E. Cherokee, Bartlesville, Oklahoma 74003

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

- Homeowners with credit available elsewhere—15.25%
- Homeowners without credit available elsewhere—7.625%
- Businesses with credit available elsewhere—16%
- Businesses without credit available elsewhere—8%
- Businesses (EIDL) without credit available elsewhere—8%
- Other (non-profit organizations including charitable and religious organizations)—11.50%

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: March 31, 1982.

James C. Sanders,
Administrator.

[FR Doc. 82-9703 Filed 4-8-82; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Decision; Section 22 Investigation of Imports of Casein, Mixtures of Casein, and Lactalbumin

On January 29, 1982, the International Trade Commission (ITC) submitted a report to the President on its investigation of casein, mixtures of casein, and lactalbumin under Section 22 of the Agricultural Adjustment Act of 1933, as amended. The ITC found that imports of casein, mixtures of casein, and lactalbumin did not materially interfere with the domestic dairy price support program. Therefore, the ITC report does not provide a basis for finding that import restrictions should be imposed under Section 22 of the Agricultural Adjustment Act.

The ITC investigation was instituted on August 24, 1981, to determine whether casein, mixtures in chief value of casein, and lactalbumin, provided for in items 493.12, 493.17, and 190.15, respectively, of the Tariff Schedules of the United States are materially interfering with or rendering ineffective the domestic price support program for milk administered by the U.S. Department of Agriculture.

In view of the investigation and report by the ITC, the Administration will take

no further action regarding the section 22 investigation into imports of casein, mixtures of casein, and lactalbumin.

C. Michael Hathaway,
Deputy General Counsel.

[FR Doc. 82-9030 Filed 4-8-82; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on April 27 and 28, 1982, of the following debt management advisory committee:

Public Securities Association, U.S. Government and Federal Agencies Securities Committee.

The agenda for the Public Securities Association, U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on April 27 and the preparation of a written report to the Secretary of the Treasury on April 28, 1982.

Pursuant to the authority placed in heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5 (January 7, 1981), I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or

financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: April 6, 1982.

Roger W. Mehle,

Assistant Secretary (Domestic Finance).

[FR Doc. 82-9683 Filed 4-8-82; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee On Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on April 29, 1982, at 2:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A-220, 110 Ninth Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons in Memphis Aero Corporation, 2540 Winchester, Memphis, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: March 31, 1982.

R. S. Bielak,

Director, VA Regional Office, 110 Ninth Avenue, South, Nashville, Tennessee.

Clyde E. McCampbell, Jr.,
Chairman.

[FR Doc. 82-9689 Filed 4-8-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 69

Friday, April 9, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

DATE AND TIME:

Monday, April 12, 1982, 9:30 a.m.-4 p.m.;
Tuesday, April 13, 9 a.m.-12 noon.

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

MATTERS TO BE CONSIDERED: April 12, 1982:

- I. Approval of Agenda.
- II. Approval of Minutes of Last Meeting.
- III. Review of Miami Report.
- IV. Simpson-Mazzoli Immigration Bill.

April 13, 1982:

- V. Interim Report on State Advisory Committee Factfinding Meetings on Hate Group Activity.
- VI. Proposed Schedule of Commission Meetings for Remainder of Calendar Year.
- VII. State Advisory Committee Rechartered:
 - A. Connecticut.
 - B. Florida.
- VIII. Main Advisory Committee Report Entitled *Maine's Domestic Violence Law Has Made a Good Beginning*.
- IX. Illinois Advisory Committee Report Entitled *The ABC's of Special Education*.
- X. Indiana Advisory Committee Report Entitled *Equal Employment Opportunity in Indianapolis Area Government*.
- XI. Joint Advisory Committee (Iowa, Kansas, Missouri, Nebraska) Report Entitled *State Government Affirmative Action in Mid-America: An Update*.
- XII. Kansas Advisory Committee Report Entitled *Employment of Administrators and Professionals by Kansas Municipal Government*.
- XIII. Civil Rights Developments in the Rocky Mountain Region.
- XIV. Staff Director's Report:
 - A. Status of Funds.
 - B. Personnel Report.
 - C. Office Directors' Reports.

FOR FURTHER INFORMATION PLEASE

CONTACT: Barbara Brooks, Press and Communications Division (202) 254-6697.

[S-511-82 Filed 4-7-82; 9:12 am]

BILLING CODE 6335-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern time), Tuesday, April 13, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open:

1. Freedom of Information Act Appeal No. 82-2-FOIA-4-BI, concerning a request for copies of internal documents and memoranda from Title VII charge file.
2. Freedom of Information Act Appeal No. 82-3-FOIA-148-CH, concerning a request for access to documents contained in a requestor's closed age discrimination case file.
3. Proposed contract for services needed in connection with a court case.
4. Section 613 of Volume II of the Compliance Manual, Terms, Conditions, and Privileges of Employment.
5. A Report on Commission Operations by the Acting Executive Director.

Closed:

1. Proposed withdrawal of Charge No. THQ7-707001.
2. Litigation Authorization: General Counsel Recommendations.
3. Proposed Department of Labor Affirmative Action Regulations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE

INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued April 6, 1982.

[S-514-82 Filed 4-7-82; 2:45 pm]

BILLING CODE 6570-06-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Series of meetings from Tuesday, April 13, 1982 through Friday, April 16, 1982. The hours are unscheduled.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. Proposed DOL's Affirmative Action Regulations.

CONTACT PERSON FOR MORE

INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued April 14, 1982.

[S-515-82 Filed 4-7-82; 3:07 pm]

BILLING CODE 6570-06-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:45 p.m. on Monday, April 5, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank in Humboldt, Humboldt, Iowa, which was closed by the Acting Comptroller of the Currency at 9:00 p.m. (EST) on Friday, April 2, 1982; (2) accept the bid for the transaction submitted by Hawkeye Bank and Trust, Humboldt, Iowa, a newly-chartered State bank subsidiary of Hawkeye Bancorporation, Des Moines, Iowa; (3) approve the application of Hawkeye Bank and Trust, Humboldt, Iowa, for Federal deposit insurance and for consent to purchase the assets of and assume the liability to pay deposits made in The First National Bank in Humboldt, Humboldt, Iowa; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its

consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 6, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-512-82 Filed 4-7-82; 10:49 am]

BILLING CODE 6714-01-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of April 12, 1982 and Week of April 19, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, April 13:

2 p.m.:
Status Report on Prioritization of Generic Issues (Public meeting)

Wednesday, April 14:

10 a.m.:
Briefing by Executive Branch (closed meeting)

2 p.m.:
Discussion of Report of Task Force on Evaluation of Ginna Event (public meeting)

Thursday, April 15:

10 a.m.:
Discussion of Capability of Reactors to Go to Cold/Hot Shutdown (public meeting)

1:30 p.m.:
Discussion of Proposed Legislation: Nuclear Standardization Act of 1982 (public meeting)

3:30 p.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Review of ALAB-653 Restricted—In the Matter of Pacific Gas and Electric Co.
b. Review of ALAB-664 (In the Matter of Tennessee Valley Authority)

Friday, April 16:

10:30 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (closed meeting)

Tuesday, April 20:

10 a.m.:
Briefing on Revised Value-Impact Procedures and Guidelines re EO12291 (public meeting)

2 p.m.:

Briefing on Long-Range Research Plan (public meeting)

Wednesday, April 21:

9:30 a.m.:
Briefing on Vendor Inspection Program (public meeting)

10:45 a.m.:
Briefing on Status and Assessment of Near-Term Operating Licenses (public meeting)

Friday, April 23:

2 p.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. 10 CFR Part 50—Proposed Rule to Clarify Applicability of License Conditions and Technical Specifications in an Emergency
b. Amendments to 10 CFR Chapter I Parts 19, 30, 40, 50, 60, 70, 72, and 150 With Respect to Employees Who Provide Information FOIA Appeal 82-A-2C (Devine) Regarding the Investigative Jurisdiction of IE and OIA

ADDITIONAL INFORMATION: Briefing on Requirements for Emergency Response Capability, scheduled for March 31, was cancelled. The Affirmation/Discussion Session scheduled for April 6 was cancelled.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

April 6, 1982.

Walter Magee,
Office of the Secretary.

[S-516-82 Filed 4-7-82; 3:30 pm]

BILLING CODE 7590-01-M

6

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors.

TIME AND DATE: 9 a.m. (closed portion); 10:15 a.m. (open portion), Tuesday, April 20, 1982.

PLACE: Offices of the Corporation, seventh floor Board Room; 1129 20th Street N.W., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 10:15 a.m. will be closed to the public. The open portion of the meeting will start at 10:15 a.m.

MATTERS TO BE CONSIDERED: (Closed to the public: 9 a.m. to 10:15 a.m.):

1. Insurance for Projects in China: General Policy and Guidelines.
2. Insurance for Civil Strife: General Policy and Guidelines.
3. Insurance Project in East Asia Country.

4. Insurance Project in Middle East Country.
5. Claims Report.
6. Information Reports: General.
7. Information Report: Project status.

FURTHER MATTERS TO BE CONSIDERED: (Open to the public: 10:15 a.m.):

1. Approval of the Minutes of the Previous Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Contractors' Insurance Program: Status Report.
4. Marketing Discussion.
5. Financial Statements for the Five Months Ended February 28, 1982.
6. Information Reports.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653-2925..

April 7, 1982.

Elizabeth A. Burton,
Corporate Secretary.

[S-517-82 Filed 4-7-82; 3:57 pm]

BILLING CODE 3210-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the Week of April 12, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, April 13, 1982, at 10:00 a.m. and on Thursday, April 15 following the 9:30 a.m. open meeting. Open meetings will be held on Thursday, April 15, 1982, at 9:30 a.m. and 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 13, 1982, at 10:00 a.m., will be:

Freedom of Information Act appeal. Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Formal order of investigation.

Settlement of administrative proceeding of an enforcement nature.

The subject matter of the closed meeting scheduled for Thursday, April 15, 1982, following the 9:30 a.m. open meeting, will be:

Institution of injunctive action.

Institution of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, April 15, 1982, at 9:30 a.m., will be:

1. Consideration of whether to issue a notice of the filing of an application by the Prudential Insurance Company of America for an order pursuant to Sections 6(c) and 6(e) of the Investment Company Act of 1940 retroactively exempting one of Prudential's separate accounts from Sections 7 and 8 of the Act and issue an order granting the application if no request for a hearing on the matter is filed. For further information, please contact Marsha Gilman at (202) 272-2057.

2. Consideration of whether to publish a codification of certain existing Accounting Series Releases and institution of a series of Financial Reporting Releases. For further information, please contact David F. Martin at (202) 272-2130.

The subject matter of the open meeting scheduled for Thursday, April 15, 1982, at 2:30 p.m., will be:

The Commission will meet with representatives of the Cincinnati Stock Exchange ("CSE") to discuss the current operation and enhancement of CSE's National Securities Trading System. For further information, please contact Bill Uchimoto at (202) 272-2906.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2092.

April 5, 1982.

[S-513-82 Filed 4-7-82; 1:33 pm]

BILLING CODE 8010-01-M

Great Interest Federal

**Friday
April 9, 1982**

Part II

Department of the Treasury

Office of Revenue Sharing

**Data Improvement Program for
Entitlement Period Fourteen**

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

Data Improvement Program for
Entitlement Period Fourteen

AGENCY: Office of Revenue Sharing,
Treasury.

ACTION: Notice.

SUMMARY: This notice provides the data definitions and effective dates for the Data Improvement Program for Entitlement Period 14 (October 1, 1982–September 30, 1983) of the Revenue Sharing Program, and provides the proper challenge procedures.

DATES: Data challenges for Entitlement Period 14 should be submitted to the Office of Revenue Sharing by May 17, 1982. Demands for allocation adjustments for Entitlement Period 14 must be made by September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, Treasury Department, Washington, D.C. 20226, (202) 634-5166.

SUPPLEMENTARY INFORMATION: On or about April 15, 1982, the data to be used by the Office of Revenue Sharing in calculating the Revenue Sharing allocations for all State areas and eligible local governments for Entitlement Period 14 will be mailed to each government. This data has been compiled by the Bureau of the Census, Bureau of Economic Analysis and the Internal Revenue Service. The definition of each data element is printed in this notice.

Also, an estimated allocation amount for each State area and recipient local government is provided to each government to aid in its data verification efforts. If a government does not believe the allocation amount is correct, it should check its data carefully to find the source of the discrepancy. The data may be corrected under this review program or other data improvement procedures. The Office of Revenue Sharing will notify each recipient government of its initial Entitlement Period 14 allocation and the amount of any adjustment for Entitlement Period 13 on its Statement of Assurances Form scheduled to be mailed in August 1982.

After the final allocations for Entitlement Period 14 are computed in spring 1983, a State or local government (or the Secretary of the Treasury) has until September 30, 1984 to make a demand for an allocation adjustment under Section 102(b) of the State and Local Fiscal Assistance Act of 1972, as

amended by Section 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976. A demand for adjustment by a State or eligible local government must be in writing with documentation justifying the proposed data correction.

The State area data will be mailed to the Governor of each State and to the Mayor of Washington, D.C. The City of Washington is treated as the only municipality in the State area of the District of Columbia. State governments are not at this time eligible to receive revenue sharing funds for Entitlement Period 14, since funds have not been appropriated for State governments for this period. States will receive a letter showing their State's data used to calculate the amount for distribution among the State areas. If a State government believes that there are errors in the data relative to the definitions and effective dates, a State government should send its written data challenge with supporting documentation to the Office of Revenue Sharing by May 17, 1982. Upon receipt of a challenge from a State government, the Office of Revenue Sharing will work with the appropriate Federal agency to substantiate or correct the questioned data. The Office of Revenue Sharing will advise the State government of the results of this review. Any resulting data changes for State areas will be used in computing the initial allocations of all eligible governments for Entitlement Period 14 currently scheduled for June 1982.

The data for each unit of local government will be mailed to the official of record for the government. Each recipient local government will be sent either a Form 3233 or a Form 90-18.3. The Form 90-18.3 will be sent only to those governments in areas declared major disaster areas since April 1, 1974 under the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. chapter 58) whose data were possibly adversely affected by a major disaster. In order to be eligible for the stabilization benefit of the Disaster Relief Act (which permits them to use their pre-disaster data figures rather than their post-disaster figures), the local governments which receive a Form 90-18.3 are required to verify that one or more of their data elements were adversely affected by the disaster. Form 3233 will be sent to all other recipient governments.

If a government believes that there are errors in the data relative to the definitions and effective dates, it should return the Form 3233 or Form 90-18.3 to the Office of Revenue Sharing by May 17, 1982 with evidence justifying the proposed data corrections. Governments

which do not wish to question their data or to certify a disaster need not return the form. When the Office of Revenue Sharing receives a written challenge from a recipient government, it will work with the appropriate Federal agency to substantiate or correct all data questioned, and will advise the government of the results of this review. Any resulting changes in the data for local governments will be used in computing the initial allocations for Entitlement Period 14 if they have been processed by the time of that allocation. Otherwise, these changes will be incorporated in the final allocations for Entitlement Period 14 scheduled for spring 1983.

The data definitions for State areas used in the interstate allocation process and for local governments used in the intrastate allocation process for Entitlement Period 14 are as follows:

State Area Data Definitions

I. Population

The population of a State for revenue sharing purposes for Entitlement Period 14 is the total resident population on July 1, 1981 as determined by the Bureau of the Census. The July 1, 1981 State populations are provisional estimates, which are published by the Bureau of the Census in *Current Population Reports*, Series P-25. These 1981 provisional State population estimates are based on the 1980 Census, and employ such population indicators as vital statistics to measure natural increase, and school enrollment and income tax returns to measure migration. For a complete description of the methodology used, please consult the full report in the Bureau of the Census' Series P-25. The 1981 State populations used for revenue sharing may not agree exactly with the figures in early Census publications, since corrections may have been made subsequent to printing.

II. Urbanized Population

The urbanized population of a State for Entitlement Period 14 is the 1980 urbanized population of a State as determined by the Bureau of the Census.

A State's 1980 urbanized population is that State's 1980 Census population living in "urbanized areas" defined according to the 1980 Urbanized Area Criteria. These criteria were published by the Bureau of the Census in the *Federal Register* on October 6, 1980.

For 1980, an urbanized area comprises an incorporated place and adjacent densely settled surrounding area that together have a minimum population of

50,000. The densely settled surrounding area consists of:

1. Contiguous incorporated or Census designated places having:

a. A population of 2,500 or more; or
b. A population of less than 2,500 but having either a population density of 1,000 persons per square mile, closely settled area containing a minimum of 50 percent of the population, or a cluster of at least 100 housing units.

2. Contiguous unincorporated area which is connected by road and has a population density of at least 1,000 persons per square mile.

3. Other contiguous unincorporated area with a density of less than 1,000 persons per square mile, provided that it:

a. Eliminates an enclave of less than 5 square miles which is surrounded by built-up area.

b. Closes an indentation in the boundary of the densely settled area that is no more than 1 mile across the open end and encompasses no more than 5 square miles.

c. Links an outlying area of qualifying density, provided that the outlying area is:

(i) Connected by road to, and is not more than 1 1/2 miles from, the main body of the urbanized area.

(ii) Separated from the main body of the urbanized area by water or other undevelopable area; connected by road to the main body of the urbanized area; and located not more than 5 miles from the main body of the urbanized area.

4. Large concentrations of nonresidential urban area (such as industrial parks, office areas, and major airports) which have at least one-quarter of the boundary contiguous to the rest of the urban area.

III. Income

The per capita income (PCI) of a State for Entitlement Period 14 is the 1979 per capita income of the State as determined by the Bureau of the Census. The per capita income is the estimated mean or average amount of total money income received during calendar year 1979 by all persons residing in the State on April 1, 1980. The initial allocations will be based on preliminary estimates of the 1979 PCI from the 1980 Census, while the final allocations will be based on the final 1979 PCI figures from the 1980 Census. If the preliminary estimates of the 1979 PCI are not available by June 1, 1982, the 1977 PCI data will be used for Entitlement Period 14.

Total money income is the sum of:

- Wage and salary income
- Net nonfarm income
- Interest, dividends, net rental income

- Social Security and railroad retirement income
- Supplemental Security Income (SSI), Aid For Dependent Children (AFDC), or other public assistance income
- All other income such as unemployment compensation, veteran's payments, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, social security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: money received from the sale of personal property; capital gains, the value of income "in kind" such as food produced and consumed in the home or free living quarters; withdrawals of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

The 1979 PCI figures will be published in the Bureau of the Census report entitled *1980 Census of Population: Characteristics of Population, PHC 80-3, Summary Characteristics for Governmental Units*. The estimates being used for revenue sharing purposes may not agree exactly with the figures in the reports, since corrections have been made to the estimates subsequent to the publication of the reports.

IV. State Individual Income Tax

The State individual income tax data of a State for Entitlement Period 14 is the total calendar year 1981 collections of the tax imposed upon the income of individuals by such State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954. These data also include collections of taxes on special types of income (e.g. interest, dividends, income from intangibles, etc.)

Actual calendar year 1981 State individual income tax collections data were obtained from the Bureau of the Census' publication entitled *Quarterly Summary of State and Local Tax Revenue, October-December 1981*. The calendar year 1981 State individual income tax collections data used for revenue sharing may not agree exactly with the figures in the Census Bureau's *Quarterly Summary of State and Local Tax Revenue*, if corrections to these data were made subsequent to its publication.

V. Federal Individual Income Tax Liabilities

The Federal individual income tax liability of a State for revenue sharing purposes is the total annual Federal

individual income taxes after credits, attributed to the residents of the State by the Internal Revenue Service. Income tax after credits is determined by subtracting statutory credits from the total of income tax before credits. It does not include self-employment tax or tax from recomputing prior year investment credit, nor does it take into account refundable credits.

Income tax before credits is the tax liability computed on taxable income based on:

1. The regular combined normal tax,
2. Alternative tax, or
3. Tax computed using the income averaging provisions.

Examples of credits which are applied against income taxes are:

1. Retirement income credit,
2. Investment credit,
3. Foreign Tax credit, and
4. Other tax credits.

The most recently available Federal individual income tax liabilities are the 1980 IRS estimates of Federal individual income tax liabilities of States. These estimated tax amounts for calendar year 1980 are the preliminary 1980 estimates from the Internal Revenue Service's *Statistics of Income*.

VI. State and Local Taxes

The State and local tax data of a State are the compulsory contributions exacted by the State government or by any unit of local government or other political subdivision of the State for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined by the Bureau of the Census for general statistical purposes.

State and local tax data used for revenue sharing purposes are the fiscal year 1980-81 State and local taxes as reported by the Bureau of the Census in Table 5 of *Government Finances 1980-81* (GF 81, No. 5). Fiscal year 1980-81 is a government's 12-month accounting period that ended between July 1, 1980 and June 30, 1981 except for three State governments and the school districts in two States. The State governments of Alabama and Michigan had fiscal years ended September 30, 1981, the Texas State government had a fiscal year ended August 31, 1981. Also, the school districts in Alabama and Texas had fiscal years ended September 30, 1981. These latter governments are treated as though they are part of the group with fiscal years ending prior to June 30, 1981.

Tax revenue comprises amounts collected from all taxes which are

imposed by a government and collected by that government, or which are collected for it by another government acting as its agent. This includes interest and penalties, but does not include amounts refunded or taxes paid under protest and held in suspense accounts subject to possible refund. These latter amounts are not regarded as revenue except as awarded to the government concerned. For purposes of this definition, local governments and other political subdivisions include counties (parishes in Louisiana and boroughs in Alaska), municipalities, townships, school districts, and special districts. A unit of government also includes, in addition to the central authority of the unit, any semi-autonomous boards, commissions, or other agencies dependent on it that do not in themselves meet requirements as to fiscal and administrative independence, even though as to accounting aspects these agencies may operate outside the central accounting and administrative pattern of the unit.

The State government information contained in State and local taxes is based on the annual Bureau of the Census survey of State finances. State finance statistics are compiled by representatives of the Bureau of the Census from official records and reports of the various States. The local government portion of the State and local tax data are estimates based on information received from all general purpose governments and from a sample of school districts and special districts. The sample consisted of districts whose relative importance in their State based on expenditure or debt was above a specified size, and a random sample of remaining units.

The fiscal year 1980-81 State and local taxes data may not agree exactly with the figures in *Government Finances 1980-81*, because corrections may have been made to these data subsequent to its publication.

VII. General Tax Effort Factor

The general tax effort factor of a State for Entitlement Period 14 is the amount of fiscal year 1980-81 State and local taxes of the State divided by the aggregate personal income of the State for 1980. State and local taxes for fiscal year 1980-81 are as defined above, and as reported by the Bureau of the Census in Table 5 of *Government Finances 1980-81* (GF 81, No. 5).

Aggregate personal income of a State in calendar year 1980 is the income of individuals as estimated by the Bureau of Economic Analysis of the Department of Commerce for national income accounts purposes and as reported in

"Personal Income By States and Regions for Selected Years," Table 1 *Survey of Current Business*, July 1981, Volume 61, Number 7.

Aggregate personal income represents the total current income received by persons residing in the State from all sources, including transfers from government and business but excluding transfers among "persons." Not only individuals (including owners of unincorporated enterprises), but also non-profit institutions, private trust funds, and private pension, health and welfare funds are classified as "persons." Personal income is measured on a before-tax basis, as the sum of wages and salary disbursements, other labor income, proprietors' and rental income, interest and dividends, and transfer payments, minus personal contributions for social insurance, etc.

Local Governments Data Definitions

I. Population

The population of a unit of local government for revenue sharing purposes for Entitlement Period 14 is the resident population on April 1, 1980 (Census Day) as determined by the Bureau of the Census in the 1980 Census of Population and Housing.

The 1980 Census was conducted primarily through self-enumeration. Each person enumerated in the 1980 Census was counted as an inhabitant of his or her usual place of residence. This means the place where the person lives and sleeps most of the time, not necessarily the person's legal residence or voting residence. Persons without a usual place of residence were counted where they happened to be staying. Residence rules for certain categories of persons are as follows:

1. Members of the Armed Forces living on a military installation were counted as residents of the area in which the installation was located; members of the Armed Forces not living on a military installation were counted as residents of the area in which they were living. Persons in families of Armed Forces personnel were counted where they were living on Census Day.

2. Each Navy ship was attributed to the municipality that the Department of the Navy designated as its homeport, except for those ships which were deployed to the 6th or 7th Fleet on Census Day. Naval personnel aboard ships which were deployed to the 6th or 7th Fleet on Census Day were defined as part of the overseas population. In homeports with 1,000 or more naval personnel assigned to ships, the naval personnel who indicated that they had a usual residence within 50 miles of the

homeport of their ship were attributed to that residence.

3. If a U.S. merchant vessel was berthed in a U.S. port on Census Day, the crew was enumerated as of that port. If the ship was not berthed in a U.S. port, but was inside the territorial waters of the United States, the crew was enumerated as of (a) the port of destination if that port was inside the United States, or (b) the homeport of the ship if its port of destination was outside the United States. Crews of U.S. flag vessels which were outside U.S. territorial waters on Census Day and crews of vessels flying a foreign flag were not enumerated.

4. College students were counted as residents of the area in which they were living while attending college. However, children in boarding schools below the college level were counted at their parental home.

5. Inmates of institutions, who ordinarily live there for considerable periods of time, were counted as residents of the area where the institution was located. Patients in short-term wards of general hospitals were counted at their usual place of residence; if they had none they were counted at the hospital.

6. Persons in hotels, motels, etc., on the night of March 31, 1980, were requested to fill out a census form for assignment of their census information back to their homes if they indicated that no one was at home to report them in the census. A similar approach was used for persons who had a usual place of residence other than the place where they were staying on Census Day. This includes persons visiting in private residences, as well as Americans who left the United States during March 1980 via major intercontinental air or ship carriers for temporary travel abroad. In addition, information on persons away from their usual place of residence was obtained from other members of their families, resident managers, neighbors, etc. If an entire household was expected to be away during the whole period of the enumeration, information on that household was obtained from neighbors. A matching process was used to eliminate duplicate reports for persons who reported for themselves while away from their usual residence and who were also reported at this usual residence by someone else.

7. A special enumeration was conducted in such facilities as missions, flophouses, jails, detention centers, etc., on the night of April 6, 1980 and persons enumerated therein were counted as residents of the area in which the establishment was located.

8. Americans who were overseas for an extended period (in the Armed Forces, working at civilian jobs, studying in foreign universities, etc.) were not included in the population of any State or the District of Columbia. On the other hand, Americans who were temporarily abroad on vacations, business trips, and the like were counted at their usual residence in the United States.

9. Citizens of foreign countries having their usual residence (legal or illegal) in the United States on Census Day, including those working or attending school here (but not living at an embassy, ministry, legation, chancellery, or consulate) were included in the enumeration, as were members of the families living with them. However, citizens of foreign countries temporarily visiting or traveling in the United States or living on the premises of an embassy, etc., were not enumerated in the 1980 Census.

For a complete definition of the population data and what constitutes a person's usual place of residence, see the Bureau of the Census' publication entitled *1980 Census of Population: Vol. 1, Characteristics of the Population, PC80-1-A, Number of Inhabitants*. The 1980 population figures used for revenue sharing may not agree exactly with the figures in Census publications, since corrections may have been made subsequently to the printing of the reports.

The 1980 population data generally relate to the boundaries of geographic areas existing on January 1, 1980. However, adjustments to the 1980 population will be made for qualifying incorporations, disincorporations, mergers, and consolidations, occurring after that date. Also, as required by Executive Order 12256 dated December 15, 1980, the 1980 census counts have been adjusted for those local governments which the Bureau of the Census estimated received at least fifty legal immigrants from Cuba or Haiti who arrived between April 1, 1980 and September 30, 1980.

Population of Indian Tribes and Alaskan Native Villages

The population of an eligible Indian tribe or Alaskan native village is the resident population as of April 1, 1980 as determined by the Bureau of the Census.

For Indian tribes, the resident population is the number of American Indians living on the reservation plus any American Indians living in adjacent tribally-owned trust lands of that tribe. For the 1980 Census, the Bureau of Indian Affairs (BIA) delineated the boundaries of American Indian

reservations based on boundaries established by treaty, statute, and executive or court order. Also, the BIA identified adjacent tribal trust lands located outside the reservation boundaries. The adjacent tribal trust lands may not conform exactly to their actual boundaries, since the boundaries used extend to the nearest physical or natural feature bordering the trust lands. Resident non-Indian members of families with an American Indian householder or spouse are also included in tribal population data. The population of the Osage Tribal Council of Oklahoma will be determined on this basis, since it has its own current reservation.

For the other Oklahoma tribes which are located within the historic areas (excluding urbanized areas), the resident Indian population for revenue sharing purposes is the Indian persons identifying with an eligible Indian tribe in the 1980 Census who live within the boundaries of the historic areas in a county which contained a portion of that eligible tribe's reservation at the time of allotment. In cases where two or more tribes had reservation land within a county, the whole historic areas within that county will be treated jointly as the land of those tribes. Parts of the historic areas located within incorporated cities or towns are excluded from the land of the tribes. Resident non-Indian members of families with an Indian householder or spouse identifying with a tribe will be included in that tribe's population data.

For Alaskan native villages, the 1980 resident population is the number of American Indians, Eskimos, and Aleuts living in the village on the April 1, 1980 Census date. Resident non-Alaskan native members of families with an Alaskan native householder or spouse are also included in the population data.

For the 1980 Census, the concept of race used by the Bureau of the Census reflects self-enumeration by respondents according to the race with which they identify themselves. Additionally, persons who did not report themselves in one of the specific race categories, but reported the name of an Indian tribe, were classified as American Indian. The 1980 population data provided by the Census Bureau are classified as provisional counts. These data may be changed for future entitlement periods as a result of further processing and analysis by the Census Bureau.

II. Per Capita Income

The per capita income (PCI) estimates used for Entitlement Period 14 will depend on the availability of these data from the Bureau of the Census. If the 1979 PCI estimates from the 1980 Census

are available by June 1, 1982, the Office of Revenue Sharing will use these data for the initial and final allocations for Entitlement Period 14. However, if the 1979 PCI data are not available for the initial allocation, then the Office of Revenue Sharing will continue to use the 1977 PCI estimates. The definition of the 1977 PCI estimates can be found in the Local Data Definitions booklets for Entitlement Period 13 sent to all governments.

The per capita income is the estimated mean or average amount of total money income received by all persons residing in the governmental unit as determined by the Bureau of the Census.

Total money income is the sum of:

- Wage and salary income
- Net nonfarm income
- Interest, dividends, net rental income
- Social Security and railroad retirement income
- Supplemental Security Income (SSI), Aid For Dependent Children (AFDC), or other public assistance income
- All other income such as unemployment compensation, veteran's payments, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, social security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: money received from the sale of personal property; capital gains; the value of income "in kind" such as food produced and consumed in the home or free living quarters; withdrawals of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

The 1979 PCI figures will be published in the Bureau of the Census report entitled *1980 Census of Population: Characteristics of Population, PHC 80-3, Summary Characteristics for Governmental Units*. The estimates being used for revenue sharing purposes may not agree exactly with the figures in the reports, since corrections have been made to the estimates subsequent to their publication.

III. Adjusted Taxes

The adjusted taxes for a unit of local government for Entitlement Period 14 are the total taxes of the unit of government in fiscal year 1981 (that government's 12-month accounting period that ended between July 1, 1980 and June 30, 1981) excluding taxes for

schools and other educational purposes. The adjusted taxes data are derived from the General Revenue Sharing Survey and Survey of Local Government Finances conducted by the Bureau of the Census for fiscal year 1981.

A government's total fiscal year 1981 taxes are those which were exacted by the government and which were collected by or for that government during fiscal year 1981. Total taxes as defined by the Bureau of the Census for general statistical purposes include a government's:

1. Property taxes—county, municipal or township taxes levied on the value of real or personal property.

2. Sales taxes—county, municipal or township taxes, either general or selective, on goods and services, measured as a percent of sales or receipts, or as an amount per unit sold.

Sales taxes are of two types:

- a. General sales or gross receipts taxes.
- b. Selective sales or gross receipts taxes.

Examples of selective sales taxes are:

- Gasoline taxes
- Liquor taxes
- Cigarette and tobacco taxes
- Public utilities excise taxes
- Amusement taxes
- Hotel and motel room occupancy and meals taxes

3. Licenses, permits and other taxes—county, municipal or township taxes not included in items 1 and 2 above.

Examples of license taxes are:

- Alcoholic beverage licenses
- Business privilege licenses
- Motor vehicle and operators license
- Hunting and fishing licenses
- Marriage licenses
- Inspection fees charged in connection with the granting or renewal of a license.

Examples of permits:

- Building permits
- Permits for a business or nonbusiness privilege

Examples of other taxes are:

- Income payroll or earning taxes
- Mortgage transfer and recordation taxes
- Severance taxes
- Inheritance and gift taxes

Taxes do not include receipts from service charges, special assessments not based on value, interest earnings or fines and forfeits.

All locally imposed taxes are credited to the local government, even if there is a mandatory distribution of funds required in the enabling legislation. This holds true even if the State collects the tax as administrative agent and makes

distribution directly to all participating governments. State-imposed taxes that are State-collected and retained are credited as State taxes.

An example of the handling of various State-collected taxes would be a five percent sales tax of which four percent was imposed by the State government and one percent was imposed by local governments. In such case the amount of revenue realized by the four percent (State-imposed) portion would be credited to the State government, the revenue from the one percent (locally-imposed) portion would be credited as local taxes. This situation should be distinguished from a wholly State-imposed tax, where part of the tax revenue is shared with local governments. An example of a shared State tax would be a five percent sales tax wholly imposed by the State government, but which provides a 20-percent share to units of local government. The local government share of this State-imposed tax would be classified as an intergovernmental transfer and not as local taxes. Thus, in determining local taxes the point of reference is the government which imposed the tax rather than the government which expended the resulting tax revenue. Besides the "Memphis Rule" provisions described in the next paragraph, the only other exception to the foregoing description is that locally collected and retained shares of State-imposed taxes (including any collection fees retained) are classified as tax revenue of the government which collects and retains the proceeds.

Certain sales taxes imposed by counties which meet the requirements of Section 109(e)(2)(B) of the Revenue Sharing Act may be considered to be taxes of the units of local government within the county rather than the county government. The "Memphis Rule," as this section is called, provides for situations whereby a county government imposes a sales tax within the geographic area of local governments within the county, and then shares part or all of the applicable tax revenue with those local governments. These taxes must be transferred by the county government without specifying the purposes for which the local governments may spend the revenues. In such cases, the governor of the State must certify to the Secretary of the Treasury that the requirements of the "Memphis Rule" are met. This certification must be made by the governor before the beginning of the entitlement period when the "Memphis Rule" is to take effect. The taxes which are transferred by the county to other

units of local government are then considered for revenue sharing purposes to be taxes of the other local governments and not the taxes of the county government.

Amounts in lieu of taxes received by a government from a utility it operates are treated as internal transfers and are excluded from taxes. Amounts in lieu of taxes received from utilities operated by other governments are reported as intergovernmental transfers.

The amount of total taxes of a local government is adjusted for revenue sharing purposes to exclude taxes for educational purposes. Taxes for education include those allocated for school operation or facilities, support of other public or private schools, retirement of school debt principal, interest payments on school debt, payments to a teacher's retirement system, etc.

For some governments, tax revenues for educational purposes are not separately identifiable, since education and at least one other expenditure category is financed from a general-type fund or funds containing non-tax revenues. In these instances, an education tax amount must be derived. The governments affected are New York City, some places in Alabama, Alaska, Arizona, Maryland, North Carolina, New Jersey, Tennessee, and generally in Connecticut and Virginia. Education taxes are calculated by multiplying the ratio of the available taxes to total available revenue amounts by the education expenditures excluding dedicated amounts. Available taxes are defined as local tax revenues not restricted to any particular expenditure category. Total available revenue amounts are the sum of unrestricted revenues, and cash and investment assets spent during the year. Dedicated amounts are monies that must be spent on one or more specified expenditure categories.

IV. Intergovernmental Transfers of Revenue

Intergovernmental transfers for Entitlement Period 14 are amounts received by a unit of government from other governments in fiscal year 1981 (the government's 12-month accounting period that ended between July 1, 1980 and June 30, 1981) for use either for specific functions or for general financial support. This amount is derived from the General Revenue Sharing Survey and Survey of Local Government Finances conducted by the Bureau of the Census for fiscal year 1981. The figure includes grants, shared taxes, contingent loans and

reimbursements for tuition costs, hospital care, construction costs, etc. Intergovernmental revenue does not include amounts received from the sale of property, commodities, or utility services to other governments, or Federal general revenue sharing entitlement funds.

The collective data for all State areas and local governments used in both the initial and final allocations for

Entitlement Period 14 will be provided to libraries designated as depositories for Government publications (44 U.S.C. 1911). A limited number of reprints of these data definitions are available upon request from the Office of Revenue Sharing.

[This notice is issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.) and Treasury

Department Order No. 224, January 26, 1973 (33 FR 3342) as amended by Treasury Department Order No. 242, Revision No. 1, May 17, 1977]

Dated: April 1, 1982.

Michael F. Hill,

Director, Office of Revenue Sharing.

[FR Doc. 82-9161 Filed 4-8-82; 8:45 am]

BILLING CODE 4810-28-M

Estimate Report

Friday
April 9, 1982

Part III

Department of Labor

Employment Standards Administration,
Wage and Hour Division

Minimum Wages for Federal and
Federally Assisted Contruction; General
Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of

publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas
Decisions to General Wage
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is

encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Louisiana:	
LA81-4084	Nov. 6, 1981.
LA81-4086	Nov. 6, 1981.
New Jersey:	
NJ81-3063	Dec. 28, 1981.
NJ82-3006	Feb. 26, 1982.
Florida:	
FL82-1018	Mar. 5, 1982.
Rhode Island:	
RI81-3042	Aug. 21, 1981.
Connecticut:	
CT82-3001	Feb. 5, 1982.
CT81-3032	May 15, 1981.

Supersedeas Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Colorado:	CO81-5147 (CO82-5107)	Sept. 4, 1981.
Illinois:	IL81-2053 (IL82-2026)	Aug. 14, 1981.
Indiana:	IL81-2053 (IL82-2026)	Aug. 14, 1981.
Kansas:	MO81-4082 (MO82-4013)	Oct. 16, 1981.
Michigan:	IL81-2053 (IL82-2026)	Aug. 14, 1981.
Minnesota:	IL81-2053 (IL82-2026)	Aug. 14, 1981.
Missouri:	MO81-4082 (MO82-4013)	Oct. 16, 1981.
New York:	IL81-2053 (IL82-2026)	Aug. 14, 1981.
Ohio:		
	IL81-2053 (IL82-2026)	Aug. 14, 1981.
	OH80-2051 (OH82-2027)	Aug. 8, 1980.
Pennsylvania:	IL81-2053 (IL82-2026)	Aug. 14, 1981.
Texas:	TX81-4050 (TX82-4017)	July 10, 1981.
Wisconsin:		
	IL81-2053 (IL82-2026)	Aug. 14, 1981.
	WI80-2013 (WI82-2023)	April 4, 1980.
	WI80-2081 (WI82-2022)	Sept. 5, 1980.
	WI80-2083 (WI82-2024)	Sept. 19, 1980.

Signed at Washington, D.C., this 2d day of April 1982.

Dorothy P. Come,
Assistant Administrator, Wage and Hour
Division.

BILLING CODE 4510-27-M

DECISION NO. LA81-4084 - MOD. #8 (46 FR 55203 - November 6, 1981) Bossier, Caddo & Calcasieu Parishes, Louisiana CHANGE: Electricians: Bossier & Caddo Pars.: Electricians Cable splicers	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
	\$14.80 15.30	2.20 2.20	3% 3%			1% 1%
DECISION NO. LA81-4086 - MOD. #8 (46 FR 55189 - November 6, 1981) Statewide Louisiana CHANGE: Bricklayers & stonemasons: Zone 5 Cement masons - Zone 5 Electricians: Zone 7 - Electricians Cable splicers Line construction: Zone 7: Linemen, operators Cable splicers Groundmen Marble, tile & terrazzo workers & finishers: Zone 6: Marble, tile & terrazzo workers Zone 7: Tile setters Painters: Zone 3: Group 1 Group 2 Group 3						
	13.00 12.55 14.80 15.30 14.80 15.30 14.80 15.30 12.80	2.20 2.20 2.20 2.20 2.20 2.20 2.20 2.20 2.20	3% 3% 3% 3% 3% 3% 3% 3% 3%			1% 1% 1% 1% 1% 1% 1% 1% 1%
	16.50 13.00 12.055 12.43 14.005	.975 .975 .975 .975 .975	.80 .80 .80 .80 .80			.12 .12 .12 .12 .12

DECISION NO. NJ81-3063 - MOD. #6 (46 FR 62746 - December 28, 1981) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBER- LAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY CHANGE: LABORERS, BUILDING CON- STRUCTION: ZONE 4 DRYWALL TAPERS & FINISHERS: ZONE 2 OMIT UNDER: POWER EQUIPMENT OPERATOR: (EXCLUDING STEEL ERECTION; TANK ERECTION AND OIL/STATIC MAINLINES & TRANSPORTATION PIPE LINES) ZONES: CLASS B ADD UNDER: POWER EQUIPMENT OPERATOR: (EXCLUDING STEEL ERECTION; TANK ERECTION AND OIL/STATIC MAINLINES & TRANSPORTATION PIPE LINES) ZONES:	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
	10.90 12.03	.85 1.91				.10 .03
			1.00	1.00		

CLASS B - "A" frame, backhoe (combination), boom attachment on loaders (rate based on size of bucket) not applicable to pipe-hoek, boring and drilling machines, brush chopper, shredder, and tree shredder, cableways, carryalls, concrete pump, concrete pumping system, pumpcrete & similar types, conveyors, 125 ft. and over, drill doctor (duties include dust collector maintenance), front end loaders (2 yds. but less than 5 yds.), graders (finish), groove cutting machine (ride on type), heater planer, HOISTS: (all type hoists, shall also include steam, gas, diesel, electric, air hydraulic, single and double drum, concrete, brick shaft caisson, snorkel roof, and/or any other Similar Type Hoisting Machines, Portable or Stationar, except Chicago Boom Type) Long Boom Rate to be applied if Hoist is "Outside Material Tower Hoist", hoists (Chicago Boom Type), Hydraulic Cranes -- 10 tons and under, Hydro-Axle, jacks, screw air hydraulic power operated unit or concole type (not hand jack or pile load test type), log skidder, pans, pavers (All Types), pumpcrete machines, squeezecrete & concrete pumping (regardless of size), scrapers, side booms, "straddle carrier, Ross and similar types and winch truck (hoisting)

MODIFICATION PAGE 3

DECISION NO. NJ82-3006 - MOD. #1 (47 FR 8523 - February 26, 1982) BERGEN, ESSEX, HUDSON AND PASSAIC COUNTIES, NEW JERSEY CHANGE: ZONE 5 Unskilled Laborers	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
	9.90	.85	1.00			.10
DECISION NO. FL82-1018 - MOD. # 2 (47 FR 9655 - March 5, 1982) Building Construction Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center, and Melabar Radar Sites in Brevard and Volusia Counties, Florida.						
CHANGE: LABORERS: 1. Air Tool Operators, Concrete Laborers, Hod Carriers, Mason Tenders, Mortar Mixers, Kettlemen (excluding roofing & waterproofing), Pipelayers, Powdermen, Form Setters (paving, curbing, & gutter), Well Point 2. Gunnite Laborer 3. Gunnite Nozzlemen 4. Unskilled Laborer	\$7.95 8.22 8.62 7.80	.60 .60 .60 .60	.40 .40 .40 .40			.01 .01 .01 .01

MODIFICATION PAGE 4

DECISION NO. RI81-3042 - MOD. #6 (46 FR 42615 - August 21, 1981) STATEWIDE, RHODE ISLAND CHANGE: HEAVY & HIGHWAY CONSTRUCTION LABORERS Laborers, Carpenter, Cement Finisher Tenders & Wrecking Laborers Adzemen, Asphalt Rakers, Barco-type Jumping Tampers, Chain Saw Ops., concrete & Power Buggy Ops., Concrete Saw Ops., Demolition Burners, Fence & Guard Rail Erectors, Highway Stone Spreaders, Mason Tenders, Mechanical Grinder Ops., Mortar Mixers, Pipelayers, Pipe Trench Bracers, Pneumatic Tool Ops., Riprap & Dry Stonewall Builders, Scaffold Erectors, Setters of Metal Forms for Road- ways, Wagon Drill Ops., Wood Chipper Ops. Air track drill ops. Brick Pavers, Block Paver, Rammers, Curb Setters BUILDING CONSTRUCTION LABORERS Laborers; Carpenter Ten- ders; Cement Finisher Tenders; Mason Tenders; Scaffold Erectors & Wrecking Laborers Asphalt Rakers; Adzemen; Pipe-Trench Bracers; Demolition Burners; Chain Saw Ops.; Fence & Guard Rail Erectors; Setters of Metal Forms for Roadways; Pipelayers; Riprap & Dry	Fringe Benefits Payments				Education and/or Appr. Tr.	
	Basic Hourly Rates	H & W	Pensions	Vacation		
	11.05	.90	1.20			.15
	11.30	.90	1.20			.15
	11.80	.90	1.20			.15
	11.05	.90	1.20			.15

MODIFICATION PAGE 5

SUPERSEDES DECISION

STATE: Colorado

COUNTIES: Delta, Garfield,
Gunnison, Mesa, Montrose, and
Pitkin

DECISION NUMBER: CO82-5107

DATE: Date of Publication

Supersedes Decision No. CO81-5147 dated September 4, 1981, in 46
FR 44611DESCRIPTION OF WORK: Building Projects (does not include single
family homes and apartments up to and including 4 stories)

DECISION NO. R181-3042 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Stonewall Builders; High- way Stone Spreaders Pneumatic Tool Ops.; Wagon Drill Ops.; Tree Trimmers; Barco Type Jumping Tampers; Mechan- ical Grinder Ops.; Plas- terers' Tenders; Scaffold Builders; & Mortar Mixers Pre-cast Floor and Roof Plank Erectors Pumping Machine Operator Air Track Ops.; Block Pavers; Rammers; & Curb Setters Blasters; Powdermen	11.30 11.55 11.65 11.80 12.05	.90 .90 .90 .90 .90	1.20 1.20 1.20 1.20 1.20			.15 .15 .15 .15 .15
DECISION NO. CT82-3001 - MOD. #3 (47 FR 5621 - February 5, 1982) FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONNECTICUT						
CHANGE: ELECTRICIANS: Area 4	16.55	1.07	38+1.00			.13
DECISION NO. CT81-3032 - MOD. #10 (46 FR 27040 - May 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONNECTICUT						
CHANGE: ELECTRICIANS: Area 5	16.55	1.07	38+1.00			.13

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$15.39	.75	\$1.49			.05
BOILERMAKERS	14.97	1.375	1.15			
BRICKLAYERS; Stonemasons:						
Pitkin County	14.49	.85	1.10			.06
Remaining Counties	12.90	.85	1.10			.05
CARPENTERS:						
Post Office basing points in the Cities of Leadville, Fort Collins, Glenwood Springs, Grand Junction, Gunnison and Montrose:						
Zone 1: 0-40 miles from nearest basing point	12.22	1.10	1.00	1.00		.10
Zone 2: 40-75 miles from nearest basing point	12.72	1.10	1.00	1.00		.10
Zone 3: 75 miles and over from nearest basing point	12.97	1.10	1.00	1.00		.10
CEMENT MASONS:						
Cement Masons	13.79	.84	1.35			.13
Working with composition materials and color	14.29	.84	1.35			.13
Working on scaffold, swing stage or temporary pla- form over 25'	14.04	.84	1.35			.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00		.07
ELECTRICIANS:						
Electricians	16.00	1.00	38+.50			.13
Cable Splicers	16.25	1.00	38+.50			.13
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a		.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a		.035
ELEVATOR CONSTRUCTORS' HELPERS (Prob.)	7.44		.60	b		
GLAZIERS	15.32	.92				
IRONWORKERS:						
Structural, Ornamental and Reinforcing	14.35	1.19	1.35			.17

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
MARBLE and TILE SETTERS;					
TERRAZZO WORKERS	\$15.53	1.30	1.45		.04
MILLWRIGHTS	14.66	1.10	1.00		.29
PAINTERS:					
Brush, Roller and Drywall	15.01	.95	1.15		.08
Finishers					
Paperhangers, Spray, Swing	15.61	.95	1.15		.08
Stage	13.44				.01
PLASTERERS	15.30	1.00	1.25		.15
PLUMBERS	12.36	.84	.40		
ROOFERS	15.96	38+.90	1.76		.17
SHEET METAL WORKERS	13.14	.80	1.30	1.00	.13
SOFT FLOOR LAYERS	15.31	.95	1.40		.08
SPRINKLER FITTERS					
TILE, MARBLE and TERRAZZO					
FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Base Grinders	10.25	1.20	1.30	.50	

FOOTNOTE:

- a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F, plus the Friday after Thanksgiving Day.
- b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
			H & W	Pensions	Vacation		
	ZONE 1	ZONE 2					
Group 1	\$ 9.40	\$9.90	.84	.70	.50		.05
Group 2	9.68	10.18	.84	.70	.50		.05
Group 3	10.20	10.70	.84	.70	.50		.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Building Construction Laborer

Group 2: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 3: Pipelayers on Building Construction.

Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.
Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS:
(Other than for work
in Tunnels, Shafts,
and Raises)

Group 1
Group 2
Group 3
Group 4
Group 5
Group 6

(For work in Tunnels,
Shafts, and Raises)

Group 1
Group 2
Group 3
Group 4
Group 5
Group 6
Group 7

See ZONE DESCRIPTIONS -
following TRUCK DRIVERS'
Classifications

Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	ZONE 2				
\$11.60	\$11.80	\$1.03	\$1.20	.60	.12
11.95	12.70	1.03	1.20	.60	.12
12.30	13.05	1.03	1.20	.60	.12
12.45	13.20	1.03	1.20	.60	.12
12.60	13.35	1.03	1.20	.60	.12
12.75	13.50	1.03	1.20	.60	.12
11.75	12.50	1.03	1.20	.60	.12
12.10	12.85	1.03	1.20	.60	.12
12.20	12.95	1.03	1.20	.60	.12
12.45	13.20	1.03	1.20	.60	.12
12.60	13.35	1.03	1.20	.60	.12
13.00	13.75	1.03	1.20	.60	.12
12.75	13.50	1.03	1.20	.60	.12

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman;
Drill Operator - smaller than Williams MF and similar;
Tender to Heavy Duty Mechanic and/or Welder; Operators
of 5 or more light plants, Welding Machines, Generators,
single unit conveyor; Pumps; Vacuum Well Point System;
Tractor, under 70 HP with or without attachments; Grade
Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch
and similar Trenching Machine; Fireman or Tank Heater, road;
Forklift; Haulage Motor Man; Pugmill; Portable Screening
Plant with or without a spray bar; Screening Plants, with
classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or
Laydown Machine; Cableway Signalman; Caisson Drill; Williams
MF, similar and larger; C.M.I. and similar; Concrete Batching
Plants; Concrete Finish Machine; Concrete Gang Saws on concrete
paving; Concrete Mixer, less than 1 yd.; Concrete Placement
Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill,
Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool;
Elevating Graders, Equipment Lubricating and service Engineer;
Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1
drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader,
Barber Green, etc.; Loader up to and including 6 cu. yds.;
Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road
Stabilization Machine; Rollers, self-propelled, all types
over 5 tons; Sandblasting Machine; single unit portable
crusher, with or without washer; Tie Tamper, wheel mounted;
Tractor, 70 HP and over with or without attachments; Trenching
Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated
power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds.
and under; Concrete Mixer over 1 cu. yd.; Concrete Paver
34E or similar; Concrete Placement Pumps, 8 inches and
over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic
Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-
welder, heavy duty; Mixer mobile; Motor Grader/blade, finish;
Multiple unit portable Crusher, with or without washer; Pile-
driver; Scrapers, single bowl under 40 cu. yds.; Self-pro-
pelled Hydraulic Crane; Tractor with sideboom; Truck mounted
Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts, and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic Welder, heavy duty

TRUCK DRIVERS	Fringe Benefits Payments					
	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	\$ 9.36	\$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

- Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle
- Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease
- Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination
- Group 7: Multi-purpose Truck; Specialty and Hoisting
- Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptr type Youngbuggy, Jumbo and similar type equipment
- Group 9: Truck Driver, Snow Plow
- Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.
- Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.
- Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.
- Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman
- Group 14: Mechanic
- Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.
- Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men
- Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.
- Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

ZONE DESCRIPTIONS

LABORERS

ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in each of the following Cities:

Aspen	Glenwood Springs	Grand Junction
Gunnison	Montrose	Naturita
	Rifle	

ZONE 2: That area encompassed by 30 or more driving miles from the Main Post Office of the Cities listed in Zone 1

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:
Delta Garfield Mesa

B. Counties entirely within Zone 2:
Gunnison Pitkin

C. Legal description of the portion of Montrose County which is included within Zone 1, as follows:
All of Montrose County lying north of the North Line of Ouray County and said North Line extended West to the Township Line between R11W and R12W, said part lying East of said Township Line of the New Mexico Principal Meridian

D. Legal description of the portion of Montrose County which is included within Zone 2, as follows:
All of Montrose County except that part lying north of the North Line of Ouray County and said North Line extended West of said Township Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian

DECISION NO. IL82-2026

SUPERSEDEAS DECISION

STATE: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin

DECISION NUMBER: IL82-2026

SUPERSEDES Decision No. IL81-2053 dated August 14, 1981 in 46 FR 41320

DESCRIPTION OF WORK: Dredging on the Great Lakes, their connecting and tributary waters, including the Illinois Waterway to the Lock at Lockport, Illinois; in the New York State Barge Canal System between Tonawanda, New York, & Waterford, New York, & Oswego, New York & on the St. Lawrence River Eastward to the International Boundary near St. Regis, New York

	Basic Hourly Rates	Fringe Benefits Payments			Education and or Appr. Tr.
		H & W	Pensions	Vacation	
DIPPER & HYDRAULIC DREDGING:					
Chief Engineer	\$19.52	.83	.80	a	
Operators	19.36	.83	.80	a	
Assistant Engineer	18.70	.83	.80	a	
Welder	18.55	.83	.80	a	
Cranemen - Dipper Dredging	18.55	.83	.80	a	
Spill Barge Operator-Hydraulic Dredging	18.55	.83	.80	a	
DRILL BOATS:					
Engineers	13.22	.73	.70	c	
Blasters	13.36	.73	.70	c	
Firemen	12.82	.73	.70	c	
Drillers, Welders or Machinists	13.23	.73	.70	c	
Oilers	12.61	.73	.70	c	
TUG ENGINEERS - Operators	17.52	1.05	1.05	h	
TUG OPERATORS - On Launch	17.02			h	
FLOATING EQUIPMENT:					
(Clamshell, Dragline & Marine Construction):					
Engineers & Operators	17.85	f		gse	
Equipment Operators	16.05	f		gse	
Firemen	15.15	f		gse	
Oilers	13.35	f		gse	
TUG WORKERS:					
Firemen, Linesmen, Oilers, Deckhands, Scowmen (on/or with Tug-boats, launches or other self-propelled boats)	15.86	b	1.00	.75+d	
DREDGE WORKERS:					
Firemen, Oiler, Deckhands and Scowmen (with Dipper Dredges, Hydraulic Dredges or other Floating Equipment engaged in Dredging Operations); Pipeline Men (both afloat and shore, including loading, unloading, installing, maintaining & handling pipe lines for Hydraulic Dredges and Sandboats)	15.86	b	1.00	.75+d	
Range and Sweepmen, Service Truck Drivers	12.30	b	1.00	.75+d	

FOOTNOTES:

a. 8 paid holidays: A through F plus Washington's Birthday and Veterans' Day; 6 1/2 days vacation with pay for 104 days of service, one additional day of vacation with pay for each of the next 3 periods of 26 days of service, and for 208 days or over of service 13 days of vacation with pay, all in one calendar year. Employees not qualifying for vacation, as set forth above, will receive one day's vacation with pay for each full 24 days of service in one calendar year.

b. \$9.10 per day, per employee.

c. 8 paid holidays: A through F plus Washington's Birthday and Veterans' Day; 6 1/2 days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21-2/3 days of service, all in one calendar year. Employees not qualifying for vacation, as set forth above, are to receive one day's vacation with pay for each full 20 days of service in one calendar year.

d. 9 paid holidays: A through F plus Washington's Birthday, Veterans' Day; and Paul Hall's Day.

e. 1/2 day vacation for each full 10 days employment in one calendar year.

f. \$3.50 per hour in fringe benefits (excluding vacation payments).

g. 8 paid holidays: A thru F plus Washington's Birthday & Veteran's Day

h. 9 paid holidays: A through F plus Washington's Birthday, Veteran's Day and Association Day; 6 1/2 days vacation with pay for 104 days of service, one additional day of vacation with pay for each of the next 3 periods of 26 days of service, and for 208 days or over of service 13 days of vacation with pay, all in one calendar year. Employees not qualifying for vacation as set forth above, will receive one half day's vacation with pay for each full 12 days of service in one calendar year.

PAID HOLIDAYS (WHERE APPLICABLE):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

STATE: Missouri & Kansas
 COUNTIES: Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas

DECISION NO: MO82-4013
 Supersedes Decision No. MO81-4082 dated October 16, 1981 in 46 FR 51169
 DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including 4 stories) and heavy and highway construction in Johnson and Wyandotte Counties, Kansas only.

DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
BOILERMAKERS	\$16.49	1.05	1.50		.05
BRICKLAYERS & STONEMASONS	14.97	1.375	1.15		.05
CARPENTERS:	14.89	1.00	.95		
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas: Carpenters, lathers, millwrights & piledrivers	15.05	.75	1.25		.07
Zone 2 - Henry County, Mo.: Carpenters	12.95	.65	.75		.07
Millwrights, Lathers & Piledrivers	14.05	.65	.75		.07
Zone 3 - Johnson Co., Mo.: Carpenters	13.375	.65	.75		.07
Millwrights, lathers & piledrivers	14.05	.65	.75		.07
CEMENT MASONS (Building Construction):					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas: Cement Masons	15.075	.95	1.00		
Zone 2 - Henry & Johnson Cos., Mo.	13.98				
CEMENT MASONS (Heavy and Highway Construction): Johnson & Wyandotte Cos., Kansas	14.97	.95	1.00		
ELECTRICIANS:					
Zone 1 - Western half of Clay & Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County, Missouri; Northwestern					

ELECTRICIANS (CONT'D):
 Zone 1 (cont'd):
 portion of Cass County, Missouri not including Pleasant Hill:
 Electricians
 Zone 2 - Henry, Johnson and Lafayette Counties, Mo. & remainder of Clay, Jackson, Platte & Cass Cos., Mo.:
 Electricians (contracts exceeding 2000 man hrs. not exceeding 2000 man hrs.)
 Zone 3 - Ray Co., Mo.:
 Electricians (contracts exceeding 2000 man hrs. not exceeding 2000 man hrs.)
 Zone 4 - Johnson & Wyandotte Counties, Kansas
 ELEVATOR CONSTRUCTORS
 ELEVATOR CONSTRUCTORS' HELPERS
 ELEVATOR CONSTRUCTORS' HELPERS (PROB)
 GLAZIERS
 IRONWORKERS:
 Zone 1 - Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Cos., Missouri
 Zone 2 - Johnson & Wyandotte Cos., Kansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D): Zone 1 (cont'd): portion of Cass County, Missouri not including Pleasant Hill: Electricians Zone 2 - Henry, Johnson and Lafayette Counties, Mo. & remainder of Clay, Jackson, Platte & Cass Cos., Mo.: Electricians (contracts exceeding 2000 man hrs. not exceeding 2000 man hrs.) Zone 3 - Ray Co., Mo.: Electricians (contracts exceeding 2000 man hrs. not exceeding 2000 man hrs.) Zone 4 - Johnson & Wyandotte Counties, Kansas ELEVATOR CONSTRUCTORS ELEVATOR CONSTRUCTORS' HELPERS ELEVATOR CONSTRUCTORS' HELPERS (PROB) GLAZIERS IRONWORKERS: Zone 1 - Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Cos., Missouri Zone 2 - Johnson & Wyandotte Cos., Kansas	\$16.18	.69	3%+1.00	7%	.12
	16.18	.69	3%+1.00	7%	.12
	15.18	.69	3%+1.00	7%	.12
	16.18	.69	3%+1.00	7%	.12
	14.58	.69	3%+1.00	7%	.12
	16.18	.69	3%+1.00	7%	.12
	15.425	1.345	.95	8%+a	.035
	70%JR	1.345	.95	8%+a	.035
	50%JR	1.12	1.34	15.48%	.05
	13.53				
	15.15	.85	1.80		.10
	15.035	.85	1.80		.10

FOOTNOTES: a - Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

LABORERS:
Building Construction:
 Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas:

Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1 \$13.45	.75	.80		.10
Group 2 13.60	.75	.80		.10
Group 3 13.75	.75	.80		.10

CLASSIFICATION DEFINITIONS

LABORERS

Group 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)

Group 2 - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgia buggies (self-propelled) fork lift; hoseman; insulation man

Group 3 - Fork lift (masonry); brick tender; plasterer tender; stonemason tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

Zone 3 - Henry and Johnson Counties, Missouri

Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1 \$10.325	.75	1.00		.10
Group 2 10.425	.75	1.00		.10
Group 3 10.65	.75	1.00		.10

CLASSIFICATION DEFINITIONS

LABORERS:

Group 1 - Carpenter tenders, track men, wreckers (alteration or entire projects); reinforcing rod carriers; signal men; all other general laborers

Group 2 - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders or pulverizers; swinging scaffold; cement handlers (buck or sack); laser beam man

Zone 3 - LABORER CLASSIFICATION DEFINITIONS

(Cont'd):

Group 3 - Plasterer tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tamperers; Jackson or any similar tamper; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer or sewer work; man working in tunnels; head form setters & stringline men; hot tar applicator

LABORERS:

Site preparation & grading, Heavy & Highway Constr:

Zone 4 - Johnson &

Wyandotte Counties, Kansas

Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1 \$12.02	.75	1.00	1.05	.10
Group 2 12.17	.75	1.00	1.05	.10
Group 3 12.32	.75	1.00	1.05	.10
Group 4 12.52	.75	1.00	1.05	.10
Group 5 12.82	.75	1.00	1.05	.10

LABORER CLASSIFICATION DEFINITIONS

Group 1 - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; loading trucks under bins, hoppers and conveyors track men and all other general laborers

Group 2 - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers cuts and fills; georgia buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter; helpers; puddlers (paving only)

Group 3 - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; top of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used

Group 4 - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; Jackson or any similar tamp wagon drill; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettlemen; hot tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels

Group 5 - Manhole builder (brick or block); dynamite and powder man

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Zone 1 - Cass, Clay, Jackson, Platte, and Ray Counties, Missouri; Wyandotte and remainder of Johnson Counties, Kansas	\$17.33 16.33 11.42	.45 .45 .45	38+.25 38+.25 38+.25		$\frac{1}{8}$ $\frac{1}{8}$ $\frac{1}{8}$
Linemen Operator					
Groundman					
Zone 2 - Western 3/4 of Johnson County, Kansas					
Lineman	14.52	.45	38		$\frac{1}{8}$
Cable Splicers	15.26	.45	38		$\frac{1}{8}$
Groundman	9.03	.45	38		$\frac{1}{8}$
Powderman	12.03	.45	38		$\frac{1}{8}$
Line Truck and Equipment operators	12.03	.45	38		$\frac{1}{8}$
Zone 3 - Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Wyandotte County & Johnson Co. - that portion east of Monticello, Olathe & Spring Hill Townships Kansas.					
Line Construction (Telephone and Telegraph Work - including C.A.T.V. Work):					
Cable splicers; air pressure technicians; central office equipment man	10.69	.45	38		
Telephone linemen & installer repairman; C.A.T.V. terminator; equipment operator ($\frac{1}{4}$ yd. backhoe & larger & D-4 crawlers & larger)	10.39	.45	38		
Equipment operator (trenchers & all other equipment)					
Groundman-winch driver	9.11	.45	38		
Groundman	7.87 6.36	.45 .45	38 38		

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Line Construction (Railroad and Cross Country Transmission Lines)					
Zone 4 - Wyandotte County and Johnson County - that portion east of Monticello, Olathe & Spring Hill Townships:					
Lineman	\$14.67	.45	38+.25		$\frac{1}{8}$
Lineman operator	13.57	.45	38+.25		$\frac{1}{8}$
Groundman, powderman	10.09	.45	38+.25		$\frac{1}{8}$
Groundman	9.42	.45	38+.25		$\frac{1}{8}$
Pole Treating:					
Pole treating specialist	15.40	.45	38+.25		$\frac{1}{8}$
Pole treating inspector	14.67	.45	38+.25		$\frac{1}{8}$
Pole treating truck driver	10.09	.45	38+.25		$\frac{1}{8}$
Pole treating groundman	9.42	.45	38+.25		$\frac{1}{8}$
MARBLE & TILE SETTERS	15.20	58	58		
Marble & tile setters, finishers					
PAINTERS:	13.20				
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whitman Air Force Base), Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Brush and tapers	15.04	.65	.75		
Spray	16.04	.65	.75		
Zone 2 - Johnson Co., Missouri (Whitman Air Force Base only)					
Brush	12.25				
Spray	13.25				

CLASSIFICATION DEFINITIONS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PLASTERERS: Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri, Johnson and Wyandotte Counties, Kansas	\$17.25				
Zone 2 - Henry and Johnson Counties, Missouri	12.51				
PIPEFITTERS	16.24				
PLUMBERS	16.16				
POWER EQUIPMENT OPERATORS: Building Construction					
Group I	15.46	1.00	1.50	1.05	.20
Group II	15.11	1.00	1.50	1.05	.20
Group III:					
(a)	10.05	1.00	1.50	1.05	.20
(b)	13.21	1.00	1.50	1.05	.20
(c)	10.85	1.00	1.50	1.05	.20
(d)	13.46	1.00	1.50	1.05	.20
Group IV	15.71	1.00	1.50	1.05	.20
Group V	15.36	1.00	1.50	1.05	.20
Group VI	15.96	1.00	1.50	1.05	.20
Group VII:					
(a)	15.21	1.00	1.50	1.05	.20
(b)	14.96	1.00	1.50	1.05	.20
(c)	12.96	1.00	1.50	1.05	.20
Group VIII	16.46	1.00	1.50	1.05	.20
Group IX	15.96	1.00	1.50	1.05	.20

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-green loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant; portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist; endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

Group II - Boilers (1); Brooms - power operated; chip spreader (front man); chief plane operator; crab - power operated; curb concrete saws; self-propelled; crane - power operated; floating machine; finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tender; compressors sigle, truck mounted; elevator; finishing machine

Group III -

(a) Oilers

(b) Fork lift-masonry

(c) Oiler driver

(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.

Group IV -

Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft. of boom or over (incl. jib)

Group V -

Hoists-each additional drum over 1 drum

Group VI -

Crane or rigs, over 200 ft. of boom

Group VII -

Ready Mixed Concrete Plants;

(a) Crane operator

(b) Loader operator & plant man

(c) Conveyor Operator

Group VIII -

Master Mechanic

Group IX -

Crane-tower or climbing

POWER EQUIPMENT OPERATORS

(CONT'D):
Site preparation and
grading, Heavy & Highway
Construction:
Zone 1 - Johnson and
Wyandotte Counties,
Kansas:

Group I

Group II

Group III

Group IV

(a)

(b)

Group V

Group VI

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$14.00	1.05	1.50	1.07		.15
13.75	1.05	1.50	1.07		.15
13.05	1.05	1.50	1.07		.15
9.03	1.05	1.50	1.07		.15
12.05	1.05	1.50	1.07		.15
14.25	1.05	1.50	1.07		.15
14.00	1.05	1.50	1.07		.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator; central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - (CONT'D)

Group II - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator; skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau roofer; multiple compactor; pavement breaker, self-propelled, of the hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p. Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

Group IV

(a) Oilers

(b) Oiler driver, all types

Group V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over

Group VI - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ROOFERS:					
Roofers	\$14.13	.87	1.00		.14
SHEET METAL WORKERS	15.42	.75	1.44		.17
SOFT FLOOR LAYERS	11.26	.60	1.00	1.00	.18
SOUND AND SIGNAL INSTALLER	9.69	.54	.27	.78	.02
SPRINKLER FITTERS	16.38	.95	1.40		.06
SPRINKLER FITTERS (Henry, Johnson and Lafayette Counties, Missouri)	15.10	.95	1.40		.08
TERRAZZO WORKERS	14.31	.58	5%		
TERRAZZO WORKERS FINISHERS	12.67				
TERRAZZO BASE MACHINE	13.02				
TRUCK DRIVERS:					
Building Construction:					
Group I	10.925	.75	1.00		
Group II	10.975	.75	1.00		
Group III	11.05	.75	1.00		
Group IV	11.175	.75	1.00		
Group V	11.075	.75	1.00		
Group VI	11.275	.75	1.00		
Group VII	11.125	.75	1.00		
Group VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
 Group I - Warehousemen and stock man
 Group II - Flat beds; pick-ups; drum trucks, under 10 yds.
 Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers
 Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumper, euclid, etc.); double bottom units (20 tons capacity and over)
 Group V - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers
 Group VI - Mechanics
 Group VII - Transit mix, 5 yds. and over
 Group VIII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone I - Johnson and Wyandotte Counties, Kansas					
Group I	\$12.66	1.25	1.50	.75	
Group II	12.86	1.25	1.50	.75	
Group III	13.17	1.25	1.50	.75	
Group IV	13.32	1.25	1.50	.75	
Group V	12.44	1.25	1.50	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
 Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
 Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers, single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment
 Group III - A-frame, lowboy, and boom truck driver
 Group IV - Mechanics and welders
 Group V - Oilers and greasers
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDES DECISION

COUNTIES: Statewide
DATE: Date of Publication
DECISION NO.: TX82-4017
Supersedes Decision No. TX81-4050, dated July 10, 1981, in 46 FR 35893.
DESCRIPTION OF WORK: See "Area Covered by Various Zones"

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	\$ -	\$ -	\$ -	\$ -	\$ -
Asphalt Heaterman	5.60	5.50	4.25	4.50	-
Asphalt Raker	5.85	5.00	4.65	4.75	5.00
Asphalt Shoveler	-	-	-	3.75	5.00
Batching Plant Scaleman	6.75	6.25	6.00	5.25	-
Batterboard Setter	-	4.65	6.50	-	-
Carpenter	6.50	6.20	5.95	5.80	5.60
Carpenter Helper	4.75	5.45	4.70	4.00	4.30
Concrete Finisher (Paving)	7.25	7.00	-	5.65	5.30
Concrete Finisher Helper (Paving)	5.50	5.25	-	4.50	3.95
Concrete Finisher (Structures)	6.00	6.00	5.80	5.05	5.55
Concrete Finisher Helper (Structures)	5.50	5.25	4.75	4.75	4.45
Concrete Rubber	-	-	-	-	4.85
Electrician	12.75	6.75	11.80	9.90	9.80
Electrician Helper	-	6.05	-	-	5.50
Form Builder (Structures)	6.55	6.25	6.90	4.70	6.00
Form Builder Helper (Structures)	4.60	5.00	4.10	4.00	4.75
Form Liner (Paving & Curb)	6.50	7.25	-	4.75	-
Form Setter (Paving & Curb)	6.35	6.45	6.50	4.25	5.50
Form Setter Helper (Paving & Curb)	5.75	4.00	4.25	-	4.75
Form Setter (Structures)	7.00	6.70	6.10	5.35	5.75
Form Setter Helper (Structures)	5.50	5.35	-	4.75	4.45
Laborer, Common	4.60	4.00	4.10	3.75	3.95
Laborer, Utility Man	5.15	5.00	4.80	4.35	4.30
Manhole Builder, Brick	-	-	-	4.10	-
Mechanic	7.70	7.50	6.00	6.50	6.55
Mechanic Helper	6.25	5.95	5.00	4.85	4.50
Oilier	5.75	5.25	5.00	4.50	5.05
Serviceman	5.85	5.70	5.25	4.50	4.55
Painter (Structures)	-	-	-	7.85	-
Painter Helper (Structures)	-	-	-	-	-
Pipelayman	-	-	-	-	-
Pipelayer	6.30	6.25	5.50	4.35	5.10
Pipelayer Helper	5.00	4.50	-	4.00	4.30
Powderman	7.50	-	5.50	5.75	5.00
Reinforcing Steel Setter (Paving)	-	4.50	-	-	-
Reinforcing Steel Setter (Structures)	6.00	5.90	5.15	5.00	5.65
Reinforcing Steel Setter Helper	4.65	-	4.90	4.05	4.70
Steel Worker (Structural)	-	-	-	-	6.50
Steel Worker Helper (Structural)	-	-	-	-	4.25
Sign Erector	-	-	-	4.00	5.75
Sign Erector Helper	-	-	-	-	4.45

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a) (i) (ii)).

ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
\$ 5.50	\$ 6.00	\$ 5.25	\$ 5.20	\$ 4.50
5.50	5.25	-	4.60	-
6.00	5.95	5.95	4.80	5.45
6.40	5.60	5.60	5.45	5.95
5.00	4.70	4.85	4.80	4.95
6.55	5.75	4.50	5.00	5.40
7.00	6.50	5.70	5.90	6.00
6.50	-	-	-	5.75
7.00	6.50	-	-	-
-	-	-	-	-
-	-	-	-	-
-	7.75	-	-	-
6.00	7.00	5.25	5.50	-
-	6.70	-	-	-
6.50	6.00	-	-	-
6.25	6.05	6.15	5.55	5.35
7.00	7.00	6.70	6.50	6.45
7.00	5.75	5.00	4.75	5.00
7.00	5.25	-	-	-
-	6.00	-	-	-
-	10.00	-	-	-
8.75	8.00	-	-	8.00
5.35	4.25	-	-	5.25
5.50	5.75	5.50	4.65	5.10
6.50	6.25	6.25	5.85	5.75
-	-	-	-	-
7.75	-	-	-	-
-	-	-	-	-
7.00	7.00	7.75	7.00	7.05
6.85	6.75	6.35	6.20	6.35
5.45	4.80	5.15	4.70	4.55
5.45	4.80	4.65	4.35	4.25
4.85	4.30	4.30	4.30	4.25
5.25	4.55	5.15	5.05	5.05
6.55	6.50	5.50	6.00	5.50

Spreader Box Man
 Swamper
 Power Equipment Operators:
 Asphalt Distributor
 Asphalt Paving Machine
 Broom or Sweeper Operator
 Bulldozer 150 HP & Less
 Bulldozer over 150 HP
 Concrete Paving Curing Machine
 Concrete Paving Finishing Machine
 Concrete Paving Form Grader
 Concrete Paving Joint Machine
 Concrete Paving Longitudinal Float
 Concrete Paving Mixer
 Concrete Paving Saw
 Concrete Paving Spreader
 Paving Sub Grader
 Crane, Clamshell, Backhoe, Derrick,
 Dragline, Shovel (less than 1½ CY)
 Crane, Clamshell, Backhoe, Derrick,
 Dragline, Shovel (1½ CY & Over)
 Crusher or Screening Plant Operator
 Elevating Grader
 Form Loader
 Foundation Drill Operator (Crawler Mounted)
 Foundation Drill Op. (Truck Mounted)
 Foundation Drill Operator Helper
 Front End Loader (2½ CY & Less)
 Front End Loader (Over 2½ CY)
 Hoist (Over 2 drums)
 Mixer (Over 16 CF)
 Mixer (16 CF & Less)
 Motor Grader Operator, Fine Grade
 Motor Grader Operator
 Roller, Steel Wheel (Plant-Mix Pavements)
 Roller, Steel Wheel (Other-Flat Wheel or Tamping)
 Roller, Pneumatic (Self-Propelled)
 Scrapers (17 CY & Less)
 Scrapers (Over 17 CY)

ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
\$ -	\$ 5.00	\$ -	\$ -	\$ -
5.30	4.65	4.75	5.25	4.50
5.85	5.00	5.20	5.75	5.75
4.70	4.25	4.45	4.70	4.50
5.90	5.15	5.50	5.50	5.25
4.75	6.25	5.50	-	4.75
-	-	-	4.55	4.50
-	-	6.50	-	-
-	-	4.50	5.50	4.50
5.10	5.00	4.50	4.40	4.25
5.75	5.45	4.60	4.50	4.65
5.75	-	5.05	4.55	4.50
5.50	5.60	5.60	5.35	5.05
-	5.70	-	-	-
-	7.50	6.00	5.70	6.00
7.00	-	-	-	5.25
6.25	-	-	-	-

Power Equipment Operators (Cont'd):
 Side Boom
 Tractor (Crawler Type) 150 HP & Less
 Tractor (Crawler Type) over 150 HP
 Tractor (Pneumatic) 80 HP & Less
 Tractor (Pneumatic) over 80 HP
 Traveling Mixer
 Trenching Machine, Light
 Trenching Machine, Heavy
 Wagon Drill, Boring Machine or Post
 Hole Driller Operator
 Truck Drivers:
 Single Axle, Light
 Single Axle, Heavy
 Tandem Axle or Semitrailer
 Lowboy-Float
 Transit-Mix
 Winch
 Welder
 Welder Helper

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	\$ -	\$ -	\$ -	\$ -	\$ -
Asphalt Heaterman	4.75	4.50	5.20	4.55	6.55
Asphalt Raker	4.55	5.80	-	5.55	-
Asphalt Shoveler	5.75	-	6.00	-	6.50
Batching Plant Scaleman	-	5.70	-	-	-
Batterboard Setter	5.70	5.50	6.00	6.50	6.65
Carpenter	4.50	5.00	4.65	5.00	5.45
Concrete Finisher (Paving)	4.50	4.75	6.30	5.00	7.05
Concrete Finisher Helper (Paving)	5.20	5.90	5.50	-	5.50
Concrete Finisher (Structures)	3.85	5.00	4.75	5.50	6.80
Concrete Finisher Helper (Structures)	4.00	5.00	5.25	4.70	5.55
Concrete Rubber	10.25	8.75	7.75	9.00	9.50
Electrician	-	5.75	5.50	5.90	5.50
Electrician Helper	5.50	6.00	6.25	5.50	6.70
Form Builder (Structures)	4.25	5.50	-	4.50	5.00
Form Builder Helper (Structures)	-	-	-	-	7.25
Form Liner (Paving & Curb)	-	5.75	6.00	-	6.10
Form Setter (Paving & Curb)	-	-	5.00	-	4.50
Form Setter Helper (Paving & Curb)	4.75	5.85	6.25	5.00	7.00
Form Setter (Structures)	4.15	4.50	4.50	4.40	5.65
Form Setter Helper (Structures)	3.75	4.00	4.00	4.10	4.00
Laborer, Common	4.45	4.70	4.45	4.45	4.90
Laborer, Utility Man	-	-	-	-	-
Manhole Builder, Brick	5.70	6.50	7.10	6.55	6.70
Mechanic	4.50	4.65	5.00	-	5.00
Mechanic Helper	5.10	5.10	6.40	5.50	6.05
Oiler	4.25	5.90	5.80	4.75	5.75
Serviceman	-	-	8.00	-	-
Painter (Structures)	7.20	-	5.00	-	-
Painter Helper (Structures)	5.00	6.00	5.00	6.00	5.75
Piledriverman	3.75	-	4.40	-	4.75
Pipelayer	-	-	6.00	-	7.00
Pipelayer Helper	-	-	-	-	5.00
Powderman	5.40	5.65	5.50	5.85	6.60
Reinforcing Steel Setter (Paving)	4.25	5.00	4.00	5.00	4.50
Reinforcing Steel Setter (Structures)	-	-	-	-	5.25
Reinforcing Steel Setter Helper	-	-	-	-	-
Steel Worker (Structural)	-	-	-	-	-
Steel Worker Helper (Structural)	-	-	-	-	-
Sign Erector	-	-	-	4.65	-
Sign Erector Helper	-	-	-	-	-

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Spreader Box Man	\$ 4.75	\$ 4.50	\$ 5.35	\$ 4.80	\$ 6.00
Swamper	3.75	-	-	-	4.95
Power Equipment Operators:					
Asphalt Distributor	4.70	5.50	6.55	5.45	6.00
Asphalt Paving Machine	5.15	6.65	6.20	5.25	6.95
Broom or Sweeper Operator	4.10	4.00	4.65	4.65	5.20
Bulldozer 150 HP & Less	4.25	5.80	5.25	5.15	6.25
Bulldozer over 150 HP	4.90	6.35	6.15	6.00	6.75
Concrete Paving Curing Machine	-	-	7.25	-	6.50
Concrete Paving Finishing Machine	4.95	-	-	-	6.50
Concrete Paving Form Grader	-	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	6.35
Concrete Paving Longitudinal Float	-	-	-	-	7.75
Concrete Paving Mixer	-	-	6.50	-	6.05
Concrete Paving Saw	-	-	-	-	-
Concrete Paving Spreader	-	-	-	-	-
Paving Sub Grader	-	-	-	-	-
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1 1/2 CY)	5.30	6.10	6.55	5.25	7.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1 1/2 CY & Over)	6.90	7.00	7.90	6.50	7.35
Crusher or Screening Plant Operator	-	-	6.00	4.60	-
Elevating Grader	-	-	-	-	-
Form Loader	-	-	-	-	-
Foundation Drill Operator (Crawler Mounted)	-	-	-	-	-
Foundation Drill Op. (Truck Mounted)	-	-	9.00	-	8.25
Foundation Drill Operator Helper	-	-	-	-	5.45
Front End Loader (2 1/2 CY & Less)	4.70	5.40	5.45	5.15	6.15
Front End Loader (Over 2 1/2 CY)	5.40	6.35	6.35	6.15	7.25
Hoist (Over 2 drums)	-	-	-	-	6.00
Mixer (Over 16 CF)	-	-	-	-	-
Mixer (16 CF & Less)	-	-	-	-	-
Motor Grader Operator, Fine Grade	6.40	7.50	7.90	7.00	7.55
Motor Grader Operator	5.65	6.20	6.35	5.50	7.25
Roller, Steel Wheel (Plant-Mix Pavements)	4.70	5.25	5.00	4.50	6.35
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.10	5.25	5.40	4.95	6.45
Roller, Pneumatic (Self-Propelled)	4.30	4.00	5.40	4.45	5.15
Scrapers (17 CY & Less)	4.25	5.35	5.55	5.10	6.25
Scrapers (Over 17 CY)	5.10	5.70	6.25	5.25	6.90

ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
\$ 5.50	\$ 5.00	\$ 5.65	\$ 4.35	\$ 6.00
Spreader Box Man	4.50	4.85	-	-
Swamper	6.20	5.60	4.50	5.90
Power Equipment Operators:	6.55	6.25	5.50	7.40
Asphalt Distributor	4.25	4.90	4.95	-
Asphalt Paving Machine	6.45	6.00	5.35	7.00
Broom or Sweeper Operator	7.10	6.05	6.45	7.40
Bulldozer 150 HP & Less	7.25	6.85	-	6.75
Bulldozer over 150 HP	7.00	-	-	7.75
Concrete Paving Curing Machine	7.00	-	-	6.90
Concrete Paving Finishing Machine	7.00	-	-	6.00
Concrete Paving Form Grader	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-
Concrete Paving Mixer	-	-	-	-
Concrete Paving Saw	6.75	-	-	6.50
Concrete Paving Spreader	-	6.75	-	7.75
Paving Sub Grader	-	-	-	7.40
Crane: Clamshell, Backhoe, Derrick	-	-	-	-
Dragline, Shovel (less than 1 1/2 CY)	6.75	6.00	6.30	7.15
Crane, Clamshell, Backhoe, Derrick	7.20	7.25	7.00	8.15
Dragline, Shovel (1 1/2 CY & Over)	6.00	-	5.25	6.50
Crusher or Screening Plant Operator	-	-	-	-
Elevating Grader	-	-	-	-
Form Loader	-	5.00	-	-
Foundation Drill Op. (Crawler Mounted)	-	-	-	-
Foundation Drill Op. (Truck Mounted)	7.80	-	-	10.50
Foundation Drill Operator Helper	5.35	-	-	8.20
Front End Loader (2 1/2 CY & Less)	6.15	5.70	5.00	6.35
Front End Loader (Over 2 1/2 CY)	6.65	6.50	6.25	7.55
Hoist (Over 2 drums)	-	-	-	-
Mixer (Over 16 CF)	7.50	7.10	-	6.00
Mixer (16 CF & Less)	-	-	4.50	5.10
Motor Grader Operator, Fine Grade	7.85	7.55	7.90	8.00
Motor Grader Operator	6.70	6.50	6.05	7.35
Roller, Steel Wheel (Plant-Mix Pavements)	6.90	5.55	5.30	6.50
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	5.60	5.00	5.35	5.70
Roller, Pneumatic (Self-Propelled)	5.60	5.05	4.90	5.65
Scrapers (17 CY & Less)	5.90	6.00	5.45	6.35
Scrapers (Over 17 CY)	6.40	6.25	6.60	6.95

Power Equipment Operators (Cont'd):

ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
\$ -	\$ 5.10	\$ -	\$ -	\$ 6.25
Side Boom	5.25	5.10	-	6.00
Tractor (Crawler Type) 150 HP & Less	6.30	6.05	-	6.50
Tractor (Crawler Type) over 150 HP	4.75	5.00	-	4.65
Tractor (Pneumatic) 80 HP & Less	5.25	5.00	-	5.50
Tractor (Pneumatic) over 80 HP	-	5.25	-	6.10
Traveling Mixer	6.00	-	4.50	5.75
Trenching Machine, Light	6.50	-	-	-
Trenching Machine, Heavy	-	-	-	-
Wagon Drill, Boring Machine or Post Hole Driller Operator	5.50	-	-	6.00
Truck Drivers:	-	-	-	-
Single Axle, Light	5.50	5.45	5.00	5.75
Single Axle, Heavy	5.80	6.00	-	6.00
Tandem Axle or Semitrailer	-	5.50	5.25	-
Lowboy-Float	6.00	6.00	-	6.20
Transit-Mix	5.90	-	-	6.20
Winch	-	-	-	-
Welder	7.00	6.10	6.80	7.00
Welder Helper	-	4.45	-	6.30

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

ZONE 16		Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
\$		-	-	-	-
Air Tool Man		-	-	-	-
Asphalt Heaterman		-	-	-	-
Asphalt Raker		-	-	-	-
Asphalt Shovel		7.00	-	-	-
Batching Plant Scaleman		-	-	-	-
Batteryboard Setter		7.50	-	-	-
Carpenter		6.00	-	-	-
Carpenter Helper		8.00	-	-	-
Concrete Finisher (Paving)		-	-	-	-
Concrete Finisher Helper (Paving)		8.00	-	-	-
Concrete Finisher (Structures)		6.00	-	-	-
Concrete Finisher Helper (Structures)		-	-	-	-
Concrete Rubber		12.00	-	-	-
Electrician		8.55	-	-	-
Electrician Helper		-	-	-	-
Form Builder (Structures)		-	-	-	-
Form Builder Helper (Structures)		6.00	-	-	-
Form Liner (Paving & Curb)		6.00	-	-	-
Form Setter (Paving & Curb)		-	-	-	-
Form Setter Helper (Paving & Curb)		6.50	-	-	-
Form Setter (Structures)		-	-	-	-
Form Setter Helper (Structures)		5.00	-	-	-
Laborer, Common		6.35	-	-	-
Laborer, Utility Man		-	-	-	-
Manhole Builder, Brick		6.50	-	-	-
Mechanic		-	-	-	-
Mechanic Helper		-	-	-	-
Oiler		-	-	-	-
Serviceman		-	-	-	-
Painter (Structures)		-	-	-	-
Painter Helper (Structures)		-	-	-	-
Piledrivermen		-	-	-	-
Pipelayer		-	-	-	-
Pipelayer Helper		-	-	-	-
Powderman		-	-	-	-
Reinforcing Steel Setter (Paving)		7.00	-	-	-
Reinforcing Steel Setter (Structures)		7.00	-	-	-
Reinforcing Steel Setter Helper		-	-	-	-
Steel Worker (Structural)		-	-	-	-
Steel Worker Helper (Structural)		-	-	-	-
Sign Erector		-	-	-	-
Sign Erector Helper		-	-	-	-

ZONE 16		Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
\$		7.00	-	-	-
Spreader Box Man		-	-	-	-
Swamper		7.00	-	-	-
Power Equipment Operators:		7.40	-	-	-
Asphalt Distributor		-	-	-	-
Asphalt Paving Machine		7.00	-	-	-
Broom or Sweeper Operator		8.50	-	-	-
Bulldozer 150 HP & Less		-	-	-	-
Bulldozer over 150 HP		-	-	-	-
Concrete Paving Curing Machine		8.00	-	-	-
Concrete Paving Finishing Machine		-	-	-	-
Concrete Paving Form Grader		-	-	-	-
Concrete Paving Joint Machine		-	-	-	-
Concrete Paving Longitudinal Float		-	-	-	-
Concrete Paving Mixer		-	-	-	-
Concrete Paving Saw		-	-	-	-
Concrete Paving Spreader		-	-	-	-
Paving Sub Grader		-	-	-	-
Crane, Clamshell, Backhoe, Derrick,		7.20	-	-	-
Dragline, Shovel (less than 1 1/2 CY)		-	-	-	-
Crane, Clamshell, Backhoe, Derrick,		8.85	-	-	-
Dragline, Shovel (1 1/2 CY & Over)		-	-	-	-
Crusher or Screening Plant Operator		-	-	-	-
Elevating Grader		-	-	-	-
Form Loader		-	-	-	-
Foundation Drill Op. (Crawler Mounted)		-	-	-	-
Foundation Drill Op. (Truck Mounted)		-	-	-	-
Foundation Drill Operator Helper		6.25	-	-	-
Front End Loader (2 1/2 CY & Less)		7.50	-	-	-
Front End Loader (Over 2 1/2 CY)		-	-	-	-
Hoist (Over 2 drums)		-	-	-	-
Mixer (Over 16 CF)		-	-	-	-
Mixer (16 CF & Less)		8.50	-	-	-
Motor Grader Operator, Fine Grade		7.00	-	-	-
Motor Grader Operator		-	-	-	-
Roller, Steel Wheel (Plant-Mix Pavements)		-	-	-	-
Roller, Steel Wheel (Other-Flat Wheel or Tamping)		6.50	-	-	-
Roller, Pneumatic (Self-Propelled)		6.50	-	-	-
Scrapers (17 CY & Less)		6.00	-	-	-
Scrapers (Over 17 CY)		6.90	-	-	-

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(iii)).

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway projects (does not include building structures in rest area projects) & Incidental Shore Work

STATE: WISCONSIN

COUNTIES: Milwaukee, Ozaukee, Waukesha and Washington

DECISION NO.: WI82-2023
 Supersedes Decision No. WI80-2013, dated April 4, 1980 in 45 FR 23283
 DESCRIPTION OF WORK: Building Construction (Including Residential Construction)

ZONE 8 - Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 9 - Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 10 - Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant* and Wise Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams), Water & Sewer Lines and Highway Projects (does not include building structures in rest area projects)

*Not to be used for Heavy Projects in Tarrant County

ZONE 11 - Collin, Dallas, Ellis, Grayson & Rockwall Counties

DESCRIPTION OF WORK: Water & sewer lines & Highway Construction Projects Only

ZONE 12 - Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 13 - Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Macgreggdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

ZONE 14 - Brazos, Burleson, Grimes, Leon, Madison, Milam, Robertson, Walker & Washington Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects)

ZONE 15 - Brazos, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller & Wharton Counties

DESCRIPTION OF WORK: Highway Construction Projects Only

ZONE 16 - Chambers, Hardin, Jefferson*, Liberty & Orange* Counties

DESCRIPTION OF WORK: Heavy Projects (excluding tunnels & dams) and Highway Projects (does not include building structures in rest area projects) & Incidental Shore Work

*Not to be used for Heavy Projects & Incidental Shore Work in Jefferson & Orange Cos.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appl. Tr.
		H. & W.	Pensions	Vacation		
ASBESTOS WORKERS	\$14.38	1.20	1.35	1.50	.18	
BOILERMAKERS	14.97	1.375	1.15	.70	.05	
BRICKLAYERS & STONEMASONS	14.47	1.35			.17	
CARPENTERS:						
Carpenters	14.12	1.60	1.35	.51	.12	
Millwrights	14.94	1.60	1.35	.51	.12	
Piledrivers	15.02	1.60	1.35	.51		
CEMENT MASONS	13.39	1.50	1.35	.51	.06	
ELECTRICIANS	15.49	1.20	3a+.68	1.08	2 1/2	
ELEVATOR CONSTRUCTORS	15.89	1.345	.95	a+b	.035	
Helpers	11.12	1.345	.95	a+b	.035	
Helpers (Prob.)	7.945					
GLAZIERS	14.41	1.05	.70	.50	.60	
IRONWORKERS:						
Structural, Ornamental and Reinforcing	13.81	1.30	1.50	1.21	.23	
LATHERS	14.12	1.60	1.35	.51	.18	
LINE CONSTRUCTION:						
Linemen	14.40	.45	9%		1 1/2	
Heavy Equipment Operator	12.96	.45	9%		1 1/2	
Equipment Operator	11.52	.45	9%		1 1/2	
Heavy Groundman, Truck Driver	10.08	.45	9%		1 1/2	
Light Groundman, Truck Driver	9.36	.45	9%		1 1/2	
Groundman	7.92	.45	9%		1 1/2	
PAINTERS:						
Brush	12.85	1.06	1.35	.65	.04	
Swing Stage	13.00	1.06	1.35	.65	.04	
Structural Steel	13.20	1.06	1.35	.65	.04	
Spray and Sandblasting	13.60	1.06	1.35	.65	.04	

POWER EQUIPMENT OPERATORS (Cont'd):

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KW), Pumps (3" and under); winches (small electric), Oiler and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
General Laborers, Form Stripper Concrete Worker, Mason Tender	12.17	1.30	1.35	.56		.09
Scaffold Builder, Pitman or Dumpman, Building Wrecker, Hod carrier, Mortar Mixer, Vibrator Operator, Kettleman, Air Space Operator	12.28	1.30	1.35	.56		.09
Barco Tamper, Jackhammer Gunnite Man Concrete Buster	12.39	1.30	1.35	.56		.09
Topman on Chimney (up to 50') and Plasterer Laborer	12.28	1.30	1.35	.56		.09

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. WI82-2023

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
PLASTERERS	13.22	1.60	1.35	.86		.05
PLUMBERS AND GASFITTERS	15.19	1.20	1.55	1.02		.15
ROOFERS	13.90	1.20	1.35	.51		.06
SHEET METAL WORKERS	14.85	1.49	1.88	.77		.23
SOFT FLOOR LAYERS	13.08	1.60	1.35	.51		.12
SPRINKLER FITTERS	16.67	.95	1.40			.04
STEAMFITTERS	15.05	1.57	1.35	1.00		.14
TERRAZZO WORKERS	14.25	1.35	1.55	.70		.21
TILE SETTERS	13.30	1.00	1.35	.65		
TERRAZZO FINISHERS	11.00	1.40	.15			
TILE FINISHERS	10.90	1.40	1.35	.85		
TRUCK DRIVERS:						
Building Material 2 Axles	11.17	a	b			
Building Material 3 Axles	11.22	a	b			

FOOTNOTES:

- a. \$43.50 per week
b. \$46.00 per week

POWER EQUIPMENT OPERATORS:

GROUP I
GROUP II
GROUP III
GROUP IV
GROUP V
GROUP VI

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Langlade, Lincoln,
& MarathonDECISION NO.: WI82-2022
DATE: Date of Publication
Supersedes Decision No.: WI80-2081 dated September 5, 1980 in
45 FR 59114.DESCRIPTION OF WORK: Building Construction (excluding single
family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$15.06	1.20	.50	1.25	.10
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	12.07	.90	.90		.05
CARPENTERS:					
Carpenters	12.27	.60	1.00		.05
Millwrights & Piledrivermen	12.67	.60	1.00		.05
CEMENT MASONS	11.57	.90	.90		.05
ELECTRICIANS	13.94	.75	3%	8%	%
ELEVATOR CONSTRUCTORS:					
Constructors	14.75	1.345	.95	a+b	.035
Helpers	10.325	1.345	.95	a+b	.035
50%JR					
IRONWORKERS: Structural,	13.11	1.25	1.00		.07
Ornamental & Reinforcing					
LABORERS:					
Laborers	10.48	.65	.55		.03
Air tool op. (jackhammer,	10.73	.65	.55		.03
vibrator)					
Mason tender, Concrete	10.58	.65	.55		.03
worker & Mortar mixers	12.27	.60	1.00		.05
LATHERS					
PAINTERS:					
Brush	11.75		.50		
Spray	12.75		.50		
PLASTERERS	12.07	.90	.90		.05
PLUMBERS & STEAMFITTERS	14.75	.65	.75	1.25	.05
ROOFERS	12.00				
SHEET METAL WORKERS	14.99	.75	.72		.06
SOFT FLOOR LAYERS - Resil-					
ient floor layers	12.27	.60	1.00		.05
TERRAZZO WORKERS	11.82	.90	.90		.05
TILE SETTERS	11.82	.90	.90		.05
WELDERS - receive rate pre-					
scribed for operation to					
which welding is incidental					

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I	\$14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator & Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader & Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic & Welder, Bituminous Plant & Paver Operator, Roller (over 5 tons), Rotary Drill Operator & Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, & Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch & under), Industrial Locomotives, Roller (under 5 tons) & Firemen (pile drivers & derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame & Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges & launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oilier & Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, fork lift (12' & under)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a) (1) (ii)).

DECISION NO. WI82-2024

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
14.12	.80	1.44	1.15	.13
14.25	1.35	1.55	.70	.21
11.96	1.00	.90	1.00	.07

SHEET METAL WORKERS
TERRAZZO WORKERS
TILE SETTERS

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 8% per hour of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% per hour of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

SUPERSEDES DECISION

STATE: Wisconsin
 COUNTY: Racine
 DATE: Date of Publication
 SUPERSEDES DECISION NO. WI80-2083, dated September 19, 1980 in 45 FR 62687
 DESCRIPTION OF WORK: Building and Residential Construction

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 14.38	1.20	1.35	1.50	.10
14.97	1.375	1.15		.05
13.77	1.00	.90	1.00	.07
14.36	.60	1.00		.14
14.96	.60	1.00		.14
11.00	.60	1.00		.14
14.36	.60	.85		.06
14.65	.60	.85		.06
14.45	.60	.85		.06
13.39	1.50	.135	.51	.06
14.22	.58	6%	7%	.50%
9.25	.58	3%	7%	1/8
16.45	.70	3%		1/8
15.89	1.345	.95	a+b	.035
11.12	1.345	.95	a+b	.035
7.945				
13.81	1.30	3.00	1.21	.23
11.72	.80	.85	.50	.04
12.04	.80	.85	.50	.04
11.85	.80	.85	.50	.04
11.85	.80	.85	.50	.04
12.04	.80	.85	.50	.04
12.70	.80	1.05		.05
12.85	.80	1.05		.05
13.45	.80	1.05		.05
13.21	.60	.85		.01
15.44	.80	.85	1.06	.02
13.82	.60	.55		.01
14.51	.60	1.00		.14

ASBESTOS WORKERS
 BOILERMAKERS
 BRICKLAYERS & STONEMASONS
 CARPENTERS (West of Hwy.
 #75) Carpenters and Soft
 Floor Layers
 Millwrights
 Carpenters (Residential)
 CARPENTERS (Balance of Co.)
 CARPENTERS and Soft Floor
 Layers
 Millwrights
 Piledrivers
 CEMENT MASONS
 ELECTRICIANS:
 Electricians (Burlington)
 Residential
 ELECTRICIANS (Balance of
 County)
 ELEVATOR CONSTRUCTORS:
 Constructors
 Helpers
 Helpers (Prob.)
 IRONWORKERS
 LABORERS:
 Laborers
 Air Tool Operators (Jack-
 hammer)
 Mason Tender, Mortar Mixer
 Plasterers' Tender
 Vibrator Operator
 PAINTERS:
 Brush
 Structural Steel
 Spray
 PLASTERERS
 PLUMBERS AND STEAMFITTERS
 ROOFERS
 PILEDRIVERS (West of Hwy.
 #75)

DECISION NO. W182-2024

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits, Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	14.92	1.35	1.30		.05
GROUP II	14.67	1.35	1.30		.05
GROUP III	13.97	1.35	1.30		.05
GROUP IV	13.85	1.35	1.30		.05
GROUP V	13.36	1.35	1.30		.05
GROUP VI	12.94	1.35	1.30		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tamper-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump chipper (large), Boats, Safety, Work, Barges and launch

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KW), Pumps (3" and under); winches (small electric), Oilier and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors,

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Federal Register

**Friday
April 9, 1982**

Part IV

Department of the Interior

Bureau of Land Management

**National Petroleum Reserve—Alaska Oil
and Gas Lease Sale No. 822; Notice of
Sale**

4310-84

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

National Petroleum Reserve-Alaska
Oil and Gas Lease Sale No. 822
Notice of Sale

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of Sale

SUMMARY: The purpose of this notice is to announce that Oil and Gas

Competitive Lease Sale No. 822 in the National Petroleum Reserve-Alaska

will be held on May 26, 1982. This notice of sale is being published in the Federal Register at least 30 days prior to the date of the sale pursuant to 43 CFR 3131.4-1.

FOR FURTHER INFORMATION CONTACT:

Lois Mason, Washington, D.C.
(202) 343-7753

Jerry Wickstrom, Anchorage, AK
(907) 271-3632

SUPPLEMENTARY INFORMATION: Notice is hereby given that at 3 p.m., a.s.t., May 26, 1982 certain lands within the National Petroleum Reserve-Alaska will be offered for competitive oil and gas lease sale by sealed bid of \$25 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514). However, no bid will be accepted for less than fair market value as determined by the authorized officer.

The sealed bids will be opened, beginning at 3 p.m., a.s.t.,

May 26, 1982, in the Gold Room of the Travelers Inn, in Fairbanks, Alaska.

A lease issued as a result of this offering is for a primary term of 10 years and will provide for payment of an annual rental of \$3 per acre or fraction thereof and a royalty of 16-2/3 percent (1/6) to be paid on production saved, removed or sold.

LANDS OFFERED: The 212 tracts offered, containing approximately 3,527,221 acres, are described as follows:

NPR-A LANDS
SALE 822

<u>Tract No.</u>	<u>Township/Range</u> (All Umiait Meridian, except where otherwise designated)	<u>Acreage</u>
822-01	Umiait Meridian T. 12 N., R. 1 E., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760
02	T. 12 N., R. 1 E., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,580
03	T. 12 N., R. 1 E., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,602
04	T. 12 N., R. 1 E., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760
05	T. 12 N., R. 1 W., all.	22,704
06	T. 11 N., R. 1 E., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,628
07	T. 11 N., R. 1 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760

08	T. 11 N., R. 1 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,628	23	T. 7 N., R. 10 W., Secs. 19 to 36, inclusive; T. 7 N., R. 11 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive; T. 6 N., R. 11 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive; T. 6 N., R. 10 W., Secs. 1 to 18, inclusive.	34,371
09	T. 11 N., R. 1 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,652			
10	T. 11 N., R. 1 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760			
11	T. 11 N., R. 2 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760	24	T. 6 N., R. 18 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	11,520
12	T. 11 N., R. 2 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,628	25	T. 6 N., R. 20 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive; T. 6 N., R. 21 W., Secs. 1 to 21, inclusive, Secs. 28 to 33, inclusive; T. 5 N., R. 21 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	28,540
13	T. 11 N., R. 2 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,652			
14	T. 11 N., R. 2 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760			
15	T. 11 N., R. 3 W., all.	22,800	26	T. 6 N., R. 22 W., all; T. 6 N., R. 23 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive; T. 5 N., R. 22 W., Secs. 1 to 18, inclusive.	40,144
16	T. 10 N., R. 2 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	11,520			
17	T. 8 N., R. 22 W., all.	22,710	27	T. 5 N., R. 11 W., all.	22,993
18	T. 8 N., R. 23 W., all.	22,710	28	T. 6 N., R. 12 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive; T. 5 N., R. 12 W., all.	28,694
19	T. 8 N., R. 24 W., all.	22,710	29	T. 6 N., R. 13 W., Secs. 19 to 36, inclusive; T. 5 N., R. 13 W., all; T. 5 N., R. 14 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	45,974
20	T. 8 N., R. 25 W., all.	22,710			
21	T. 7 N., R. 20 W., Secs. 4 to 9, inclusive, Secs. 16 to 21, inclusive, Secs. 28 to 33, inclusive; T. 7 N., R. 21 W., all.	34,088			
22	T. 7 N., R. 22 W., all; T. 7 N., R. 23 W., Secs. 22 to 27 inclusive, Secs. 34 to 36, inclusive.	28,564	30	T. 5 N., R. 18 W., all; T. 4 N., R. 18 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	+28,580

31	T. 4 N., R. 20 W., all; T. 5 N., R. 20 W., Secs. 19 to 36, inclusive.	34,224	47	T. 3 N., R. 5 W., Secs. 19 to 36, inclusive.	11,415
32	T. 4 N., R. 21 W., all; T. 5 N., R. 21 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	28,476	48	T. 3 N., R. 6 W., all.	22,809
33	T. 6 N., R. 24 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive; T. 5 N., R. 24 W., all.	28,694	49	T. 3 N., R. 7 W., all.	22,809
34	T. 4 N., R. 6 W., all.	22,716	50	T. 3 N., R. 8 W., all.	22,809
35	T. 4 N., R. 7 W., all.	22,716	51	T. 3 N., R. 9 W., all.	22,809
36	T. 4 N., R. 8 W., all.	22,716	52	T. 3 N., R. 10 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive; T. 3 N., R. 11 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	11,415
37	T. 4 N., R. 9 W., all.	22,716	53	T. 3 N., R. 11 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive; T. 3 N., R. 12 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	11,415
38	T. 4 N., R. 11 W., Secs. 1 to 18, inclusive.	11,347	54	T. 3 N., R. 12 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,633
39	T. 4 N., R. 12 W., Secs. 1 to 18, inclusive.	11,347	55	T. 3 N., R. 12 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,655
40	T. 4 N., R. 13 W., all.	22,716	56	T. 3 N., R. 13 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760
41	T. 4 N., R. 14 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 19 to 36, inclusive.	17,129	57	T. 3 N., R. 13 W., Secs. 4 to 9, inclusive, secs 16 to 18, inclusive.	5,633
42	T. 4 N., R. 15 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive; T. 3 N., R. 15 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	11,520	58	T. 3 N., R. 13 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,655
43	T. 4 N., R. 24 W., all.	22,716	59	T. 3 N., R. 13 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760
44	T. 4 N., R. 25 W., all.	22,716	60	T. 3 N., R. 14 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760
45	T. 4 N., R. 26 W., all.	22,716			
46	T. 4 N., R. 27 W., Secs. 19 to 36, inclusive; T. 3 N., R. 27 W., Secs. 1 to 18, inclusive.	22,762			

61	T. 3 N., R. 14 W., Secs. 4 to 9, inclusive; Secs. 16 to 18, inclusive.	5,633	76	T. 3 N., R. 4 W., Secs. 19 to 21, inclusive; Secs. 28 to 33, inclusive; T. 2 N., R. 4 W., all.	28,556
62	T. 3 N., R. 14 W., Secs. 19 to 21, inclusive; Secs. 28 to 33, inclusive.	5,655	77	T. 2 N., R. 5 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive.	5,760
63	T. 3 N., R. 14 W., Secs. 22 to 27, inclusive; Secs. 34 to 36, inclusive.	5,760	78	T. 2 N., R. 5 W., Secs. 4 to 9, inclusive; Secs. 16 to 18, inclusive.	5,679
64	T. 3 N., R. 15 W., Secs. 22 to 27, inclusive; Secs. 34 to 36, inclusive; T. 2 N., R. 15 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive; Secs. 19 to 36, inclusive.	22,982	79	T. 2 N., R. 5 W., Secs. 19 to 21, inclusive; Secs. 28 to 33, inclusive.	5,702
65	T. 3 N., R. 20 W., Secs. 4 to 9, inclusive; Secs. 16 to 21, inclusive; Secs. 28 to 33, inclusive.	11,288	80	T. 2 N., R. 5 W., Secs. 22 to 27, inclusive; Secs. 34 to 36, inclusive.	5,760
66	T. 3 N., R. 21 W., all.		81	T. 2 N., R. 6 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive.	5,760
67	T. 4 N., R. 22 W., Secs. 19 to 36, inclusive; T. 3 N., R. 22 W., all.	22,809 34,178	82	T. 2 N., R. 6 W., Secs. 4 to 9, inclusive; Secs. 16 to 18, inclusive.	5,679
68	T. 4 N., R. 23 W., Secs. 19 to 36, inclusive; T. 3 N., R. 23 W., Secs. 1 to 18, inclusive.	22,762	83	T. 2 N., R. 6 W., Secs. 19 to 21, inclusive; Secs. 28 to 33, inclusive.	5,702
69	T. 3 N., R. 24 W., Secs. 19 to 36, inclusive.	11,415	84	T. 2 N., R. 6 W., Secs. 22 to 27, inclusive; Secs. 34 to 36, inclusive.	5,760
70	T. 3 N., R. 25 W., Secs. 19 to 36, inclusive.	11,415	85	T. 2 N., R. 7 W., all.	22,901
71	T. 3 N., R. 26 W., Secs. 19 to 36 inclusive.	11,415	86	T. 2 N., R. 8 W., all.	22,901
72	T. 2 N., R. 1 E., all.	22,901	87	T. 2 N., R. 9 W., all.	22,901
73	T. 2 N., R. 1 W., all.	22,901	88	T. 2 N., R. 10 W., all.	22,901
74	T. 2 N., R. 2 W., all.	22,901	89	T. 2 N., R. 11 W., all.	22,901
75	T. 2 N., R. 3 W., all.	22,901	90	T. 2 N., R. 12 W., all.	22,901
			91	T. 2 N., R. 13 W., Secs. 1 to 3 inclusive; Secs. 10 to 15 inclusive.	5,760

92	T. 2 N., R. 13 W., Secs. 4 to 9 inclusive, Secs. 16 to 18 inclusive.	5,679	108	T. 1 N., R. 4 W., all.	22,993
93	T. 2 N., R. 13 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,702	109	T. 1 N., R. 5 W., all.	22,993
94	T. 2 N., R. 13 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760	110	T. 1 N., R. 6 W., all.	22,993
95	T. 2 N., R. 14 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760	111	T. 1 N., R. 8 W., all.	22,993
96	T. 2 N., R. 14 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,679	112	T. 1 N., R. 9 W., all.	22,993
97	T. 2 N., R. 14 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,702	113	T. 1 N., R. 14 W., all.	22,993
98	T. 2 N., R. 14 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760	114	T. 1 N., R. 15 W., all.	22,993
99	T. 2 N., R. 19 W., all.	22,901	115	T. 1 N., R. 18 W., Secs. 19 to 36, inclusive.	11,509
100	T. 2 N., R. 20 W., all.	22,901	116	T. 1 N., R. 19 W., all.	22,993
101	T. 2 N., R. 21 W., all.	22,901	117	T. 1 N., R. 20 W., all.	22,993
102	T. 2 N., R. 22 W., all.	22,901	118	T. 1 N., R. 21 W., all.	22,993
103	T. 3 N., R. 23 W., Secs. 19 to 36, inclusive; T. 3 N., R. 24 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	17,175	119	T. 1 N., R. 22 W., all.	22,993
104	T. 2 N., R. 23 W., all.	22,901	120	T. 1 N., R. 23 W., all.	22,993
105	T. 2 N., R. 24 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	11,520	121	T. 1 N., R. 24 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	11,520
106	T. 1 N., R. 2 W., all.	22,993	122	T. 1 S., R. 2 W., Secs. 1 to 10, inclusive, Secs. 17 to 18, inclusive.	7,510
107	T. 1 N., R. 3 W., all.	22,993	123	T. 1 S., R. 3 W., Secs. 1 to 24, inclusive, Secs. 27 to 33, inclusive.	19,522
			124	T. 1 S., R. 4 W., all.	22,722
			125	T. 1 S., R. 5 W., all.	22,722
			126	T. 1 S., R. 7 W., all; T. 1 S., R. 8 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive; T. 2 S., R. 8 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	40,002

127	T. 1 S., R. 8 W., Secs. 4 to 9, inclusive; Secs. 16 to 18, inclusive; T. 1 S., R. 9 W., Secs. 1 to 18, inclusive.	16,940	139	T. 2 S., R. 16 W., Secs. 19 to 21, inclusive; Secs. 28 to 33, inclusive.	5,657
128	T. 1 S., R. 14 W., all; T. 2 S., R. 14 W., Secs. 1 to 18, inclusive.	34,117	140	T. 2 S., R. 16 W., Secs. 22 to 27, inclusive; Secs. 10 to 15, inclusive.	5,760
129	T. 1 S., R. 15 W., all.	22,722	141	T. 2 S., R. 17 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive.	5,760
130	T. 1 S., R. 16 W., all; T. 1 N., R. 16 W., Secs. 19 to 36, inclusive.	34,231	142	T. 2 S., R. 17 W., Secs. 4 to 9, inclusive; Secs. 16 to 18, inclusive.	5,635
131	T. 1 S., R. 18 W., all; T. 2 S., R. 18 W., Secs. 1 to 18, inclusive.	34,117	143	T. 2 S., R. 17 W., Secs. 19 to 21, inclusive; Secs. 28 to 33, inclusive.	5,657
132	T. 1 S., R. 19 W., all; T. 2 S., R. 19 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive.	28,482	144	T. 2 S., R. 17 W., Secs. 22 to 27, inclusive; Secs. 34 to 36, inclusive.	5,760
133	T. 1 S., R. 20 W., all; T. 1 S., R. 21 W., Secs. 1 to 18, inclusive.	34,072	145	T. 2 S., R. 18 W., Secs. 19 to 36, inclusive.	11,417
134	T. 2 S., R. 10 W., all.	22,813	146	T. 2 S., R. 21 W., Secs. 19 to 21, inclusive; Secs. 28 to 33, inclusive; T. 3 S., R. 21 W., all.	28,560
135	T. 2 S., R. 11 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive; Secs. 22 to 27, inclusive; Secs. 34 to 36, inclusive; T. 3 S., R. 11 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive; T. 3 S., R. 10 W., Secs. 4 to 9, inclusive; Secs. 16 to 18, inclusive.	22,960	147	T. 2 S., R. 22 W., Secs. 19 to 36, inclusive; T. 3 S., R. 22 W., all.	34,320
136	T. 2 S., R. 15 W., Secs. 1 to 18, inclusive.	11,395	148	T. 3 S., R. 6 W., Secs. 1 to 12, inclusive; Secs. 14 to 22, inclusive; Secs. 28 to 33, inclusive.	17,144
137	T. 2 S., R. 16 W., Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive.	5,760	149	T. 3 S., R. 7 W., all; T. 3 S., R. 8 W., Secs. 19 to 36, inclusive.	34,367
138	T. 2 S., R. 16 W., Secs. 4 to 9, inclusive; Secs. 16 to 18, inclusive.	5,635	150	T. 4 S., R. 9 W., Secs. 1 to 24, inclusive; Secs. 26 to 29, inclusive; Secs. 33 to 35, inclusive; T. 4 S., R. 10 W., Secs. 1 to 3, inclusive; Secs. 10 to 13, inclusive;	35,160

151	T. 3 S., R. 10 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.			T. 7 S., R. 23 W., Secs. 4 to 36, inclusive.	20,985
	T. 3 S., R. 17 W., Secs. 4 to 9, inclusive, Secs. 16 to 21, inclusive, Secs. 28 to 33, inclusive; T. 4 S., R. 17 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive; T. 3 S., R. 18 W., all; T. 4 S., R. 18 W., Secs. 1 to 18, inclusive.	51,499		T. 7 S., R. 24 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760
152	T. 3 S., R. 19 W., all; T. 4 S., R. 19 W., Secs. 1 to 18, inclusive.	34,389		T. 7 S., R. 24 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,681
153	T. 3 S., R. 20 W., all; T. 4 S., R. 20 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	28,663		T. 7 S., R. 24 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,701
154	T. 7 S., R. 19 W., Secs. 19 to 36, inclusive; T. 8 S., R. 19 W., all.	34,460		T. 7 S., R. 29 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,681
155	T. 7 S., R. 20 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760		T. 7 S., R. 29 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,701
156	T. 7 S., R. 20 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,704		T. 7 S., R. 29 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760
157	T. 8 S., R. 20 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,726		T. 8 S., R. 20 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,749
158	T. 8 S., R. 20 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760		T. 8 S., R. 20 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,760
159	T. 7 S., R. 21 W., Secs. 19 to 36, inclusive; T. 8 S., R. 21 W., all.	34,460		T. 8 S., R. 23 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,726
160	T. 7 S., R. 22 W., Secs. 19 to 36, inclusive; T. 8 S., R. 22 W., all.	34,460		T. 8 S., R. 23 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,740

175	T. 8 S., R. 23 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760	189	T. 9 S., R. 20 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760
176	T. 8 S., R. 24 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760	190	T. 9 S., R. 21 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760
177	T. 8 S., R. 24 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,726	191	T. 9 S., R. 21 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,596
178	T. 8 S., R. 24 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,749	192	T. 9 S., R. 21 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,617
179	T. 8 S., R. 24 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760	193	T. 9 S., R. 21 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760
180	T. 8 S., R. 25 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760	194	T. 9 S., R. 22 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760
181	T. 8 S., R. 25 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,726	195	T. 9 S., R. 22 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,596
182	T. 8 S., R. 25 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,749	196	T. 9 S., R. 22 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,617
183	T. 8 S., R. 25 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760	197	T. 9 S., R. 22 W., Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	5,760
184	T. 8 S., R. 26 W., all.	22,996	198	T. 9 S., R. 23 W., all.	22,733
185	T. 9 S., R. 19 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,596	199	T. 9 S., R. 25 W., all.	22,733
186	T. 9 S., R. 20 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive.	5,760	200	T. 9 S., R. 26 W., all; T. 9 S., R. 27 W., all.	45,466
187	T. 9 S., R. 20 W., Secs. 4 to 9, inclusive, Secs. 16 to 18, inclusive.	5,596	201	T. 9 S., R. 28 W., all; T. 9 S., R. 29 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive; T. 10 S., R. 28 W., Secs. 1 to 18, inclusive.	45,651
188	T. 9 S., R. 20 W., Secs. 19 to 21, inclusive, Secs. 28 to 33, inclusive.	5,617			

202	T. 10 S., R. 20 W., Secs. 1 to 12, inclusive, Secs. 14 to 21, inclusive, Secs. 29 to 32, inclusive.	15,140
203	T. 10 S., R. 24 W., all.	22,820
204	T. 10 S., R. 25 W., all.	22,820
205	T. 10 S., R. 26 W., all.	22,820
206	T. 10 S., R. 27 W., all.	22,820
207	T. 11 S., R. 21 W., Secs. 1 to 21, inclusive, Secs. 28 to 33, inclusive.	17,148
208	T. 11 S., R. 24 W., all.	22,908
209	T. 11 S., R. 25 W., all; T. 11 S., R. 26 W., Secs. 1 to 3, inclusive, Secs. 10 to 15, inclusive, Secs. 22 to 27, inclusive, Secs. 34 to 36, inclusive.	34,428
210	T. 12 S., R. 21 W., Umiat Meridian Secs. 4 to 9, inclusive, Secs. 16 to 21, inclusive, Secs. 28 to 30, inclusive; T. 12 S., R. 22 W., Umiat Meridian, Secs. 1 to 30, inclusive; T. 34 N., R. 8 E., Kateel River Meridian, Secs. 7 to 18, inclusive.	36,418
211	T. 12 S., R. 23 W., Umiat Meridian, Secs. 1 to 30, inclusive; T. 34 N., R. 7 E., Kateel River Meridian, Secs. 7 to 18, inclusive.	26,783
212	T. 12 S., R. 24 W., Umiat Meridian, Secs. 1 to 30, inclusive; T. 12 S., R. 25 W., Umiat Meridian, Secs. 7 to 9, inclusive, Secs. 16 to 21, inclusive, Secs. 28 to 33, inclusive; T. 34 N., R. 6 E., Kateel River Meridian, Secs. 7 to 18, inclusive; T. 34 N., R. 5 E., Kateel River Meridian, Secs. 22 to 27, inclusive, Secs. 34 to 36 inclusive.	40,220

Containing an approximate aggregate total of 3,527,221 acres.

Tracts numbered 31, 32, 49 and 198 are being reoffered in this sale. These four tracts were offered and received bids in Sale No. 821 on January 27, 1982. The high bids on these tracts were rejected by decision on 3-4-82. Since the appeal period will not be terminated by the date of this sale notice, BLM will delete any tracts on which an appeal is filed.

WHERE AND WHEN TO SUBMIT BIDS: Sealed bids must be mailed to, and received in, the Alaska State Office or delivered in person to the Public Room, 1st floor of the Federal Building, 701 C Street, Box 70, Anchorage, AK 99513, by 2 p.m., a.s.t., May 24, 1982. Sealed bids may also be personally delivered between the hour 1 p.m., a.s.t., and 2 p.m., a.s.t., May 26, 1982 to the Rampart Room of the Travelers Inn in Fairbanks.

WHO MAY HOLD LEASES: In accordance with 43 CFR 3132.1, leases issued pursuant to this subpart may be held only by:

(a) Citizens and nationals of the United States;

(b) Aliens lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(c) Private, public or municipal corporations under the laws of the United States or of any State or of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa or any of its territories; or

(d) Associations of such citizens, nationals, resident aliens or private, public or municipal corporations.

The bid envelope must be plainly marked that it is NOT TO BE OPENED BEFORE THE DATE AND HOUR OF THE BID OPENING, SHOW THE TRACT NUMBER, NAME OF THE COMPANY WITH AN (I) FOR AN INDIVIDUAL BID OR (J) FOR JOINT BID.

No bids received after 2 p.m., a.s.t., May 26, 1982 will be considered. Bids may not be modified or withdrawn unless modifications or withdrawals are received prior to the time herein stated. Deposits shall be refunded to unsuccessful bidders.

PAYMENT AND ADDITIONAL REQUIREMENTS: If a bid is accepted, two (2) copies of the lease form will be sent to the successful bidder, who will be required, not later than the 15th day after receipt, to execute both copies and return them, together with the first year's rental, and the balance of the bonus bid.

The successful bidder is responsible for filing either a \$100,000 corporate surety bond for a single lease or provide an NPRA-wide \$300,000 bond prior to lease issuance. In accordance with 43 CFR 3134.1(e) the bonds required by this section are in addition to any other bonds the successful bidder may have filed or be required to file under subparts 3104 and 3318 of this title.

ANTITRUST REVIEW INFORMATION REQUIRED BY

THE DEPARTMENT OF JUSTICE

I. General Instructions

1. Pursuant to 43 CFR 3130.1, successful bidders for petroleum leases to be issued by the Department of the Interior in the National Petroleum Reserve in Alaska (NPR-A) are required to submit certain information to

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Submission of a lease bid constitutes certification of compliance with the regulations under 43 CFR 3132.1. Anyone seeking to acquire or anyone holding a Federal lease or interest therein, may be required to submit additional information to show compliance.

BIDDING REQUIREMENTS: A separate sealed bid must be submitted for each tract and must be for all the lands in each tract.

Each bid must be accompanied by the following:

- (a) Bid deposit of one-fifth the amount of bid in U.S. currency, bank draft, certified or cashier's check, payable to the order of the Bureau of Land Management. This deposit will be forfeited if a bidder, after being awarded a lease, fails to execute the lease or otherwise comply with the applicable regulations (43 CFR 3132).
- (b) A signed certificate to the effect that the bid was arrived at independently and was tendered without collusion with any other bidders. An Independent Price Determination Certificate is available for this certification.
- (c) Completed Forms 1140-7 (Equal Opportunity Affirmative Action Program Representation) and 1140-8 (Equal Opportunity Compliance Report Certification). These forms need be furnished only once per sale.

Bidders are warned against violation of Section 1860, Title 18, U.S. Code, prohibiting unlawful combination or intimidation of bidder. The Government reserves the right to reject any and all bids.

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letter notes that based on the pattern of resource acquisitions in the first NPR-A sale the concentration of reserve ownership in Petroleum Administration for Defense District (PADD) V is expected to be slightly reduced. A preliminary determination is that the antitrust review information requirements will be unchanged from those for the first NPR-A Sale 821 as published in the Federal Register on December 24, 1981 (46 F.R. 62628). The Department of Justice letter is published as an appendix to this notice of sale.

II. Information Required

A reiteration of the specific information concerning the Department of Justice antitrust review requirements for this NPR-A Sale 822 lease offering is included in the detailed statement of the terms and conditions of the lease offering which may be obtained at the Alaska State Office at the address provided at the conclusion of this notice of sale.

Where a bidder in the prior sale has previously submitted the required information to the Department of Justice, a reference to the date of submission and to the serial number of the record in which it is filed, together with a statement of any and all changes in the information since the date of the previous submission will be sufficient for the Department of Justice for the antitrust review of bids in this sale.

All inquiries regarding this Department of Justice requirement can be made to Mr. David Brown; Attorney, Energy Section; Antitrust Division; Department of Justice; P.O. Box 14141; Washington, D.C. 20044; Telephone (202) 724-6608.

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the Department of Justice before a lease can be awarded to a successful bidder. The requirement concerning the conduct of an antitrust review is pursuant to the Naval Petroleum Reserves Production Act of 1976, section 106 (90 Stat. 303, 42 U.S.C. 6506). This section of the Act states that the provisions of subsections (g), (h), and (i) of section 7430 of title 10, United States Code, shall be deemed applicable requiring a report by the United States Attorney General on the anticipated effects upon competition of such plans and proposals when development leading to production of petroleum is authorized in the NPR-A.

The antitrust information is to be submitted to the Department of Justice through the Department of the Interior, Bureau of Land Management. If the submitting company wishes all or part of the information to remain confidential it should submit such information in a sealed envelope stamped confidential, which will then be transmitted to the Department of Justice unopened by the Department of the Interior.

2. The required information must be submitted by the successful bidder on a given tract. If the successful bidder bids successfully on more than one tract, the required information need be submitted only once.

3. The thirty-day antitrust review period commences upon receipt of this information by the Department of Justice. To expedite such a review, a bidder may elect to submit all of the required information in advance of the opening of the bids.

4. In a letter to the Department of the Interior the Department of Justice has communicated its favorable review of all successful bidders in the first NPR-A Sale 821. In addition, the Department of Justice

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SPECIAL STIPULATIONS: The following special stipulations will be attached to, and made a part of, the leases issued as a result of this offering:

1. Stipulations for All Tracts

- (a) Prior to entry upon the lands for purposes of conducting geophysical operations, the Lessee will be required to obtain a geophysical exploration permit approved by the Authorized Officer (BLM). Such geophysical exploration permit shall provide for such conditions, restrictions, and prohibitions as the Authorized Officer (BLM) deems necessary or appropriate to mitigate reasonably foreseeable and significant adverse effects upon the surface resources. Upon promulgation of regulations governing the permitting of geophysical operations, those regulations shall apply to this lease and supersede the other provisions of this stipulation.

- (b) In any Application for Permit to Drill submitted under 30 CFR 221, the Lessee shall include a proposed environmental training program for all personnel involved in exploration or development activities (including

personnel of the Lessee's contractors and subcontractors) for review and approval by the Deputy Minerals Manager (DMM), Onshore Field Operations, Alaska Region, Minerals Management Service (MMS) in consultation with the Fairbanks District Manager, BLM. The program shall be designed to inform each project employee of the specific types of environmental, social, and cultural concerns which relate to that individual's job. The program shall be formulated and conducted by qualified instructors experienced in pertinent fields of study. They shall use methods to assure that personnel are instructed in recognition of and proper handling of archaeological, geological, and biological resources and the policy and techniques for non-harassment of wildlife resources. The program shall be designed to increase the sensitivity and understanding of personnel to local community values, customs, and lifestyles. Information on local subsistence activities should be included in order to minimize potential conflicts. The Lessee also shall submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the Lessee and its agents, contractors, and subcontractors.

2. Tracts 1-16

Exploration, drilling, and other development activities will not be allowed between May 20 to August 25 in order to protect important waterfowl nesting, molting, and staging habitat. The DMM with the concurrence of the Fairbanks District Manager, BLM, may grant exceptions when it can be shown by the Lessee that activities will be conducted in such a manner as to have negligible adverse effects on waterfowl, or are not being conducted in proximity to important waterfowl habitat. These limitations will not apply to maintenance and operation of producing wells. Exceptions in any year must be

specifically authorized in writing by the DMM, Onshore Field Operations, Alaska Region, MMS, with the concurrence of the Fairbanks District Manager, BLM. Exceptions will be based upon an evaluation of location, timing, intensity, and density of proposed operations as well as the anticipated cumulative effects of multi-company activities.

3. Tracts 17-33; 38-46; 52-71; 88-105; 113-121; 128-133 and 136-212

Exploration, drilling, and other development activities will not be allowed within active caribou migration routes between August 15 and September 15 in order to protect them. No activities which would hinder normal caribou movements will be permitted. The DMM, with the concurrence of the Fairbanks District Manager, BLM, may grant exceptions when it can be shown by the Lessee that activities will not likely have an adverse effect upon caribou during post-calving migrations. Exceptions will be based upon an evaluation of the location, timing, intensity, and density of proposed operations as well as the anticipated cumulative impacts of multi-company activities. These limitations will not apply to maintenance and operation of producing wells. Exceptions in any year must be specifically authorized in writing by the DMM, Onshore Field Operations, Alaska Region, MMS, with the concurrence of the Fairbanks District Manager, BLM.

4. Tracts 27-29; 34-42; 47-64; 72-97; 106-114; 122-127; 134-135; 148-150 and 154-212

Exploration, drilling and other development activities will be limited as follows in order to protect important endangered raptor nesting sites:

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- (a) All construction and ground level activity will be prohibited within one mile of nesting sites from April 15 through August 31.
- (b) Aircraft shall maintain 1500' altitude above the nest sites and one mile horizontal distance from nest sites from April 15 - August 31 unless doing so would endanger human life or safe flying practices.
- (c) Proposed drill pads, permanent airstrips, camps, roads, or pipelines will not be permitted within one mile of any nesting site;
- (d) Blasting or other significant construction noise within two miles of nest sites is prohibited between April 15 and August 31 unless specifically authorized by BLM after consultation with the U.S. Fish and Wildlife Service (FWS).
- (e) Material sites, disposal sites, water reservoirs, drill pads, or other land uses that would significantly alter ponds, lakes, wetlands or shrub riparian habitat are prohibited within one mile of nest sites. Such activity within fifteen miles of identified peregrine falcon nest sites must be specifically authorized by the DMM, Onshore Field Operations, Alaska Region, MMS with the concurrence of the BLM Fairbanks District Manager, and the Regional Director, FWS and will be allowed only after a complete analysis of impacts to potential peregrine falcon hunting habitat.

Exceptions to these limitations in peregrine falcon hunting habitat areas must be specifically authorized in writing by the DMM, Onshore Field Operations, Alaska Region, MMS, with the concurrence of the Fairbanks District Manager, BLM, and the Alaska Regional Director, FWS.

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5. Tracts 199 and 200

Exploration and/or construction of drilling and other development activities will not be allowed in the vicinity of Larger Swayback Lake, unless an exception is allowed by the DMM, with the concurrence of the Fairbanks District Manager, BLM, to protect important archaeological resources.

Exceptions must be specifically authorized in writing by the DMM, Onshore Field Operations, Alaska Region, MMS, with the concurrence of the Fairbanks District Manager, BLM.

6. Tracts 1-16; 17-22; 24-26; 31-33; 43-46; 65-71; 99-105; 115-121 and 167-169

The DMM, Onshore Field Operations; Alaska Region, MMS may find that areas within the lease contain harvestable resources utilized by North Slope residents who have customarily and traditionally had a subsistence lifestyle. If such a finding is made the DMM shall notify the Lessee in writing that the Lessee shall comply with the following requirements:

Prior to any drilling or construction or placement of any exploration or development structure on lease areas, including pipeline and facility placement, (hereafter referred to as "operation"), the Lessee shall gather site specific information using field examination techniques approved by BLM's Authorized Officer (the DMM will transmit the field examination techniques design to the AO (BLM) for approval).

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The field examination(s) shall identify, on all areas where operations will take place, the:

- (a) active subsistence hunting, fishing, trapping or gathering sites;
- (b) routes of access to the subsistence sites traditionally used by subsistence hunters, trappers, fishermen and gatherers;
- (c) areas of high densities of harvestable resources; and
- (d) wildlife migration routes of the harvestable resources within, from and onto the area of proposed operations.

If the site specific information shows that harvestable subsistence resources may be adversely affected by any lease operations, the Lessee shall either:

- (1)(a) relocate the site of such operations to minimize adverse effects on the harvestable resources and/or (1)(b) relocate the site of such operations to avoid occupancy of any active subsistence site (including a buffer area of at least 200 meters around such subsistence sites) and/or
- (1)(c) conduct such operations and design production, processing, and transportation facilities to assure continued access of the subsistence user to the subsistence sites and to areas where the harvestable resources are of known high density; or (2) establish to the satisfaction of the DMM, after consultation with rural Alaskans who actively use the area for subsistence, that such operations will not have a significant adverse effect upon the harvestable resources, the subsistence sites, and/or subsistence users' access to the subsistence sites or harvestable resources.

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7. Tracts 9, 10, 14 and 16

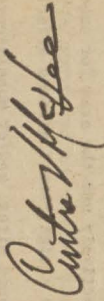
No activities, construction, or facilities will be authorized within 200 meters of Fish Creek unless the operator determines to the satisfaction of the DMM that such activities, construction or facilities will not interfere with continued subsistence use of Fish Creek.

8. Tracts 1-16; 31-33; 43-46; 65-71; 99-105; 115-121; 130-133; 141-147 and 151-153

Exploration, drilling, and other development activities will not be allowed between May 15 and July 15 in an area used for caribou calving in order to protect important seasonal caribou calving habitat. No activities which would hinder normal caribou movements will be permitted. The DMM, with the concurrence of the Fairbanks District Manager, BLM, may grant exceptions when it can be shown by the Lessee that activities are not likely to have an adverse effect on calving or migrating caribou. Exceptions will be based upon the location, timing, intensity, and density of the proposed operation as well as the anticipated cumulative impacts of multi-company activities. These limitations will not apply to maintenance and operations of producing wells. Exceptions in any year must be specifically authorized in writing by the DMM, Onshore Field Operations, Alaska Region, MMS, with the concurrence of the Fairbanks District Manager, BLM.

ADDITIONAL SALE INFORMATION: A detailed statement of the terms and conditions of the lease offering, the forms discussed above and the bid format may be obtained from the Alaska State Office, Bureau of Land

Management, 701 C Street, Box 13, Anchorage, AK 99513, or from the Fairbanks District Office, Bureau of Land Management, P.O. Box 1150, Fairbanks, AK 99707.



Curtis V. McVee, Director
Alaska State Office

APR 1 1982

U.S. Department of Justice

Antitrust Division

Office of the Assistant Attorney General

Washington, D.C. 20530

April 2, 1982

Honorable James Watt
Secretary
Department of the Interior
Washington, D.C. 20240

Dear Secretary Watt:

Pursuant to section 106 of the Naval Petroleum Reserves Production Act of 1976, 42 U.S.C. § 6506, the Department of Justice has reviewed National Petroleum Reserve-Alaska ("NPR-A") First Oil and Gas Lease Sale No. 821, which was held on January 27, 1982. Our review indicates that issuance of leases for tracts bid upon in NPR-A First Oil and Gas Lease Sale No. 821 will not create or maintain a situation inconsistent with the antitrust laws.

In our review of the Outer Continental Shelf ("OCS") Federal/State Beaufort Sea Oil and Gas Sale No. BF, we found a distinct market for low-quality (sour) crude oil in Petroleum Administration for Defense District V ("PADDD V"). 1/ Further, we found a high degree of concentration in the private ownership of reserves in that market. 2/ Accordingly, in determining whether resource acquisitions by firms bidding in Lease Sale No. 821 may create or maintain a situation inconsistent with the antitrust laws, we have evaluated the impact of the potential quantities of oil involved in the sale in the context of competition among owners of proven reserves of low-quality (sour) crude oil in PADDD V.

According to the confidential tract resource estimates, supplied to us by the United States Geological Survey, the total resources acquired in Lease Sale No. 821 by the leading

1/ PADDD V is comprised of the states of Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington.

2/ Advice and Recommendations of the U.S. Department of Justice to the Secretary of the Interior concerning OCS Federal/State Beaufort Sea Oil and Gas Lease Sale No. BF, January 24, 1980, at 1.

PADD V reserve owners amount to an insignificant fraction of estimated low-quality (sour) crude oil reserves in PADDD V. Moreover, the pattern of resource acquisitions in Lease Sale No. 821 is such that the sale can be expected to reduce slightly the concentration of reserve ownership in PADDD V among the four PADDD V reserve holders with the highest fractional shares of that market. 3/ The Department has therefore concluded that acceptance of any or all of the high bids will not create or maintain a situation inconsistent with the antitrust laws.

We understand that the second NPR-A lease sale is scheduled to be held on May 26, 1982. For your information, the Department has preliminarily determined that the antitrust review information requirements to be imposed upon successful bidders in that sale will be the same as those announced for the first sale. Of course, if successful bidders in the second sale have already provided the Department with the required information, 43 C.F.R. § 3130.1 provides that those companies need only update such information in their submission.

Sincerely yours,

William F. Baxter
William F. Baxter
Assistant Attorney General
Antitrust Division

3/ The following is a listing of successful bidders in Lease Sale No. 821 by amount successfully bid:

Bidder	Amount Bid
Gulf	\$28,439,992.43
Exxon	7,261,000.00
Arco Alaska	5,767,027.95
Getty	5,757,672.77
Sohio	3,022,897.06
Chevron	2,871,392.80
Shell	1,411,254.74
Murphy	1,267,725.00
Union	737,500.00
Amoco	305,004.74
	<u>\$57,146,483.01</u>

[FR Doc. 82-9716 Filed 4-8-82; 8:45 am]
BILLING CODE 4310-84-C

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

REPORT OF THE
SPECIAL AGENT IN CHARGE
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LAND OFFICE
AT
DENVER, COLORADO
FOR THE
YEAR
1900

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Register

Federal

Friday
April 9, 1982

Part V

Department of Energy

Energy Information Administration

Notice of Public Hearing on Proposed
Forms

DEPARTMENT OF ENERGY

Energy Information Administration

Proposed EIA Forms 782 and 783;
Public Hearing

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of Public Hearing on Proposed EIA Forms 782 and 783.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicits comments concerning the data requirements to be met, and the burden that will be imposed by the proposed Forms EIA-782, "Monthly Petroleum Product Sales Report" and EIA-783, "Quarterly Petroleum Product Sales Report." In an effort to increase public participation in the development of these forms, EIA will conduct a public hearing on Wednesday, May 5, 1982, and if necessary, Thursday, May 6, 1982.

DATES AND ADDRESSES: Hearing: May 5, 1982, 9:00 a.m. and continued on May 6, if necessary, in Room 5041, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Requests to speak at the hearing should be received by: Jimmie L. Petersen, Director, Office of Oil and Gas, Energy Information Administration, Room 2H-058, 1000 Independence Avenue SW., Docket No. YC, Washington, D.C. 20585, telephone (202) 252-6401, or John S. Cook, Acting Director, Petroleum Marketing Division, Office of Oil and Gas, Energy Information Administration, Room BG-024, Mail Stop 2H-058, 1000 Independence Avenue SW., Docket No. YC, Washington, D.C. 20585, telephone (202) 252-5214 by 4:30 p.m. (e.s.t.) April 20, 1982.

EIA will notify speakers of their selection to participate on or by April 23, 1982. Written comments on the forms must be submitted by 4:30 p.m. May 3, 1982. Written comments for presentation at the hearing or for the record must be received no later than 4:30 p.m. April 27, 1982.

FOR FURTHER INFORMATION CONTACT:

Jimmie L. Petersen, Director, Office of Oil and Gas, Energy Information Administration, Department of Energy, Room 2H-058, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6401

John S. Cook, Acting Director, Petroleum Marketing Division, Office of Oil and Gas, Energy Information Administration, Department of Energy, Room BG-024, Mail Stop 2H-058, Forrestal Building, 1000 Independence Avenue SW.,

Washington, D.C. 20585, (202) 252-5214

SUPPLEMENTARY INFORMATION:

I. Background

II. Comment and Public Hearing Procedures

I. Background

In accordance with provisions of the Department of Energy Organization Act (Pub. L. No. 95-91), the Energy Information Administration (EIA) is responsible for carrying out a comprehensive, centralized energy data program including the collection and dissemination of economic and statistical information. In keeping with these mandated responsibilities and in an effort to minimize respondent reporting burden, EIA has developed Forms EIA-782, "Monthly Petroleum Product Sales Report," and EIA-783, "Quarterly Petroleum Product Sales Report." EIA believes these proposed reports will provide the basic data needed for an integrated petroleum pricing and distribution reporting system responsive to performance of its responsibilities and to meeting the needs of other users of the information.

Forms EIA-782 and EIA-783 will consolidate Forms EIA-25, "Prime Supplier's Monthly Report"; EIA-460, "Petroleum Industry Monthly Report on Product Prices"; and EIA-9A, "No. 2 Distillate Price Monitoring Report" and other petroleum product marketing and distribution forms. It is the intent of EIA in consolidating these requirements to maximize the utility of the data to all potential users and at the same time minimize total respondent reporting burden.

In order to achieve these goals, extensive discussion with State energy offices, industry trade organizations, industry representatives, Federal agencies that collect energy related statistical information and other interested parties has been conducted during the development of the EIA-782 and EIA-783.

Form EIA-782 is designed to provide monthly sales volumes and weighted average prices of petroleum products sold to specific categories of end users and non-end users. Form EIA-783 is designed to supplement the data on the EIA-782 by providing more detailed geographic sales volumes and prices on a quarterly basis. Respondents to the initial phase of the survey will include refiners (for all schedules), prime suppliers (for Schedules A and E), and selected fuel oil dealers (for Schedules A and D). At a later phase of the survey, this coverage may be increased for selected schedules to cover more of the petroleum product distribution system.

II. Comment and Public Hearing Procedures

A. Written Comments

1. Hearing—The purpose of the hearing is to obtain substantive and specific information relating to the needs, uses, and requirements for the information collection proposed and the burden, cost, adequacy, and accuracy of representation of those requirements as represented by the proposed forms. The EIA is particularly interested in:

a. A clear and specific evaluation of the needs, requirements, and uses for the information proposed to be collected;

b. The level of detail required, as related to frequency of reported data, product types, geographic area, and distribution or consumption sectors, necessary to meet these requirements;

c. The identification of alternative sources of this information and an evaluation of these alternatives as compared to the needs and requirements in II.A.1.a and b;

d. The necessity and desirability for the Energy Information Administration to collect these data and the most appropriate manner for disseminating that information in the event data needs are clearly established.

e. An evaluation of the costs and burden placed on the providers of the requested information.

f. An evaluation of the probability that State governments would impose similar reporting requirements in the absence of a Federal data system and a quantification of the costs and burden associated with such State action.

g. Any and all other facts, information or alternatives which would provide specific and substantive input into the decision-making process.

2. Forms EIA-782 and EIA-783—Forms EIA-782 and EIA-783 are reproduced following this notice. EIA invites the public to comment on these forms by May 3, 1982, and provides the following general guidelines to assist in the preparation of responses.

(As a potential data provider)

a. Are the instructions and definitions clear and sufficient?

b. Can the data be submitted using the definitions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for research, computation, preparation and administrative review, will it take your firm to complete and submit these forms for the first year of reporting—including time to design and implement ADP processing programs?

e. How many hours will it take your firm for subsequent years of reporting?

f. Estimate the annual cost of completing the forms, including direct and indirect costs associated with the data collection for the first year and for subsequent years of reporting. Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP and other administrative costs.

g. How can the forms be improved?

(As a potential data user)

a. Do you need data at the levels of detail indicated on the forms; that is, do the products, frequency, market categories, and geography reflect your needs?

b. For what purposes would you use these data? (Be specific)

c. What are the "costs" involved in not having these data available?

d. How could the form be improved to better meet your specific data needs?

e. Are there alternative sources of data and do you now use them? What are their strong points? What are their deficiencies?

Comments provided on the forms will be included in EIA's submission to the

Office of Management and Budget and will become a matter of public record.

B. Conduct of the hearing

The EIA will schedule the presentations and establish the procedures governing the conduct of the hearing. Any person desiring to present oral testimony will be allowed to do so, time permitting. Although time constraints may limit the number of persons who will be allowed to speak, EIA will consider all comments submitted. Likewise, the length of each presentation may be limited based on the number of persons requesting to be heard. Requestors will be notified of specific times, dates, time limitations, and the required number of copies of the presentation for the record, by 4:30 p.m., April 23, 1982.

An EIA official will be designated to preside at the hearing. An official of the Office of Management and Budget will be present and serve as a member of the panel. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing. There will be no cross-examination of persons presenting statements. At the conclusion of all

initial oral statements, each person who has made an oral statement will be given the opportunity, if he/she so desires, to make a rebuttal statement. Their rebuttal statements will be given in the order in which the requests to make such statements were made and will be subject to time limitations.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained in EIA and made available for inspection at the DOE Freedom of Information Office, Room 1E-190, 1000 Independence Avenue SW., Washington, D.C., 20585, between the hours of 8:30 a.m. and 4:30, Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C. April 5, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

BILLING CODE 6450-01-M

U.S. DEPARTMENT OF ENERGY
Energy Information Administration
Washington, D.C. 20585

MONTHLY PETROLEUM PRODUCT SALES REPORT
EIA-782

Schedule A

This report is mandatory under the authority of P.L. 93-275, the Federal Energy Administration Act of 1974, and P.L. 96-102, the Emergency Energy Conservation Act of 1979. Late filing, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions for provisions concerning confidentiality of data.

Part I: IDENTIFICATION DATA

Complete items 1 thru 8 for new reporters and corrections to label only.

1. Name _____

2. DOE Identification Number _____

3. Name of Contact Person _____

4. Contact's Telephone Number _____

5. Street/Box/RFD _____

6. City _____ 7. State _____ 8. Zip Code _____

9. Reporting Period: _____
Month _____ Year _____

12. What type of report is this?
(1) _____ Original
(2) _____ Revision, to Report Dated _____ Month _____ Day _____ Year

10. Date of this Report: _____
Month _____ Day _____ Year _____

11. The following schedules are enclosed:

13. Type of Entity
(1) _____ Retailer
(2) _____ Reseller
(3) _____ Refiner

	B	C	D	E
Numbers of each schedule	_____	_____	_____	_____

Part II - CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

14. Name _____ 15. Title _____ 16. Signature _____ 17. Date of Signing _____

Title 18 USC 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

SCHEDULE B

MONTHLY NATIONAL SALES OF MOTOR GASOLINES

Part I IDENTIFICATION DATA

1. Firm Name _____ 2. DOE I.D. Number _____ 3. Page _____ 4. Reporting Period MO _____ YR _____
 5. a. _____ Original; b. _____ Revision, to Report Dated MO _____ DAY _____ YR _____

Part II NATIONAL DATA

6. National sales volumes and selling prices - Enter the following information for total national sales during the reporting period. Report all volumes in thousands of gallons and all unit prices in dollars per gallon rounded to the nearest tenth of a cent.

Products		Sales to Ultimate Consumers			Sales to Non-Ultimate Consumers										
Finished Motor Gasolines	Code	Company Operated Retail Outlets	Other Direct Sales	To Refiners		To Resellers			To Retailers						
				Volume	Unit* Price	Volume	Unit* Price	Volume	Unit* Price	Volume	Unit* Price				
		Volume (a)	Unit Price* (b)	Volume (c)	Unit Price* (d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)
(1) Leaded Premium															
(2) Leaded Regular															
(3) Unleaded Premium**															
(4) Unleaded Regular															

NOTES: *Unit price should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale.

**Include total sales of gasoline in the category Unleaded Premium.

EIA-782: Schedule B

SCHEDULE C

NATIONAL SALES OF DISTILLATES, AVIATION FUELS, RESIDUAL FUEL OILS AND PROPANE

Part I IDENTIFICATION DATA

1. Firm Name _____ 2. DOE i.d. Number _____ 3. Page _____ 4. Reporting Period MO ____ YR ____

5. a. _____ Original; b. _____ Revision, to Report Dated MO ____ DAY ____ YR ____

Part II NATIONAL DATA

6. National sales volumes and selling prices - enter the following information for total national product sales during the reporting period. Report all sales volumes in thousands of gallons and all unit prices in dollars per gallon rounded to the nearest tenth of a cent.

Products	Code	Sales to Ultimate Consumers		Sales to Non-Ultimate Consumers			
		Volume (a)	Unit Price* (b)	To Refiners		To Resellers	
				Volume (c)	Unit Price* (d)	Volume (e)	Unit Price* (f)
(1) No. 1 Distillate							Unit Price* (h)
(2) Kerosene							
(3) No. 4 Fuel							
(4) Aviation Gasoline							
(5) Naphtha-Base Jet Fuel							
(6) Kerosene-Base Jet Fuel							
(7) Residual Fuel $\leq 1\frac{1}{2}$ S							
(8) Residual Fuel $> 1\frac{1}{2}$ S							
(9) Propane (Consumer Grade)							

NOTE: *Unit price should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale.

EIA-782: Schedule C

SCHEDULE D
STATE SALES AND NATIONAL PURCHASES
OF NO. 2 DISTILLATES

Part I IDENTIFICATION DATA

1. Firm Name _____

2. DOE I.D. Number _____

3. page _____

4. Reporting Period MO ____ YR ____

5. a. ____ Original; b. ____ Revision, to Report Dated ____ MO ____ DAY ____ YR

Part II STATE DISTILLATE SALES

6. State - Enter the abbreviation of the state for which this schedule is being filed. ____
(See Appendix A - List of State Codes.)

7. Sales to Ultimate Consumers; State Sales Volumes and Selling Prices - Enter the following information for sales in this state during the reporting period. Report all volumes in thousands of gallons and all unit prices in dollars per gallon rounded to the nearest tenth of a cent.

Products	Code	Sales to Ultimate Consumers									
		Residential		Retail		Commercial/ Institutional		Industrial/ Utility		Other	
		Volume	Unit Price*	Volume	Unit Price*	Volume	Unit Price*	Volume	Unit Price*	Volume	Unit Price*
		(a)	(b)	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
(1) No. 2 Diesel Fuel											
(2) No. 2 Fuel Oil											

8. Sales to Non-Ultimate Consumers; State Sales Volumes and Selling Prices - Enter the following information for sales in this state during the reporting period. Report all volumes in thousands of gallons and all unit prices in dollars per gallon rounded to the nearest tenth of a cent.

Products	Code	Sales to Non-Ultimate Consumers					
		To Refiners		To Resellers		To Retailers	
		Volume	Unit Price*	Volume	Unit Price*	Volume	Unit Price*
		(a)	(b)	(c)	(d)	(e)	(f)
(1) No. 2 Diesel Fuel							
(2) No. 2 Fuel Oil							

Part III NATIONAL PURCHASE DATA

9. Enter the following information on purchases for the operation of the entire firm during this reporting period. Enter the data only once; that is, if Schedule D is submitted for more than one state, enter part III only on the first Schedule D prepared. Report all volumes in thousands of gallons and all unit costs in dollars per gallon rounded to the nearest tenth of a cent.

Product	Code	(a) Volume	(b) Unit Cost *
(1) No. 2 Diesel Fuel			
(2) No. 2 Fuel Oil			

NOTE: *Unit price and unit cost should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale.

SCHEDULE E
PRODUCT SUPPLIED INTO STATES
FOR CONSUMPTION

Part I IDENTIFICATION DATA

1. Firm Name _____ 2. DOE I.D. Number _____ 3. page _____

4. Reporting Period: MO __ YR __ 5. a. __ Original; b. __ Revision, to Report Dated __ MO __ DAY __ YR

6. Name and telephone number of contact _____

Part II STATE DATA

7. Enter the abbreviation of the state for which this schedule is being filed (See Appendix A - List of State Codes)

STATE _____

8. Petroleum Products	Code	For the reporting period, enter the total volume (in thousands of gallons) sold and delivered into the state for consumption. Month: _____ (a)	For the second month following the reporting period, enter the volume (in thousands of gallons) estimated to be sold and delivered into state for consumption. Month: _____ (b)
(1) Finished Leaded Motor Gasoline			
(2) Finished Unleaded Motor Gasoline			
(3) Kerosene			
(4) No. 1 Distillate			
(5) No. 2 Distillate			
(6) Finished Aviation Gasoline			
(7) Kerosene Base Jet Fuel			
(8) Naphtha Base Jet Fuel			
(9) No. 4 Fuel			
(10) Residual Fuel Oil \leq 1% S			
(11) Residual Fuel Oil $>$ 1% S			
(12) Propane (Consumer Grade)			

Instructions for Filing Monthly Petroleum Product Sales Report EIA-782

General Information

I. Purpose

The EIA-782 is designed to provide data on:

- Sales of petroleum products into a state for end-use in that state, and
- Sales of petroleum products (volumes and prices) to various categories of end-users and non-end-users.

These data are being collected pursuant to the provisions of the Federal Energy Administration Act of 1974, P.L. 93-275, and the Emergency Energy Conservation Act of 1979, P.L. 96-102. The data are used by the Department of Energy (DOE) in reviewing petroleum product supply, demand and price changes.

II. Who Must Submit

All refiners and a scientifically selected sample of resellers and retailers of refined petroleum products must prepare and file the EIA-782 each month. Each respondent must submit the schedules specified on the company identification labels provided by the government.

III. Where To Submit

Send the appropriate completed schedules of the EIA-782, as discussed in "Who Must Submit," to: Energy Information Administration, EI-421, Mail Station: BF-118 Forrestal, U.S. Department of Energy, Washington, D.C. 20585.

Please note that Schedule E must also be filed with the states. See Specific Instructions for Schedule E.

If you have any questions concerning any of the EIA-782 instructions please call toll free on (800) 424-9041.

IV. When To Submit

This form must be postmarked and sent to DOE no later than 20 calendar days after the close of each reporting period.

V. Sanctions

This report is mandatory under Public Laws 93-275 and 96-102. Failure to comply with reporting requirements may result in criminal fines, civil penalties, and other sanctions as provided by law.

VI. Provisions for Confidentiality of Information

The information contained on these forms may be:

- (1) Information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act, 5 USC 552(b)(4) (FOIA); or
- (2) Prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element by element

basis if possible), in a letter accompanying the initial submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives the initial submission and does not also receive a request, with substantive justification, that the information submitted should not be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted by it on the form.

A new written justification need not be submitted each time the EIA-782 is submitted if:

- (1) The respondent's views concerning information items identified as privileged or confidential have not changed; or
- (2) A written justification setting forth the respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must also be made available, upon request, to the Congress or any committee of Congress and the General Accounting Office.

General Instructions

I. Report all data on an ownership (equity) basis.

II. Report only the data for the products listed; i.e., we are not seeking full coverage of all petroleum products sold.

III. Data entered should reflect only sales and purchases made during the reporting month. Wherever possible, exclude from all schedules and calculations any material prior period adjustments to volumes and/or prices, and revise the report(s) for the appropriate prior period(s).

IV. Revisions to prior month's reports are also required for any changes that, in the respondent's best judgement, would materially change the respondent's prior report(s).

V. Material adjustments or changes to sales volumes or prices are those that, by their inclusion in current month's data or their exclusion from prior month's data, would cause reported volumes or unit prices to be unrepresentative of the actual monthly level of sales or of the actual unit prices paid by customers in that month.

VI. Certified computer printouts that are generally in the format of the EIA-782 schedules will be accepted. Please request DOE approval in advance if you plan to submit computer printouts.

VII. Exclude amounts supplied to exchange partners except where the amount given up exceeds the amount received and the differential is invoiced as a sale during the reporting period.

VIII. Report all volumes in thousands of gallons. Enter zero (0) if no volumes were sold.

IX. Unit prices and costs should be reported in decimals of U.S. dollars and expressed to the nearest tenth of a cent (e.g.,

\$1.065). Unit prices are to be determined by dividing the total revenues derived from the sales of the product during the reporting period by the total number of gallons sold. The unit price is the same as the weighted average price for all sales of that particular product to a particular group of customers or class-of-trade. The unit price should be reported in dollars per gallon with three digits to the right of the decimal. These prices should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale. Do not calculate unit prices using rounded volumes.

X. In the event firms do not maintain information in sufficient detail to provide actual unit prices by the customer categories specified on the forms, estimates of unit prices may be provided. The basis for the estimates must be consistent with the standard accounting records maintained by the firm. The estimating procedure and data supporting the estimates should result in a reasonably accurate estimate which will be subject to review.

XI. Part I—Identification on Schedules B-E Item

1—Firm Name: Enter the name of the reporting company.

2—DOE ID Number: Enter the 6-digit identification number assigned to the reporting company for this survey. This is the number printed in the upper left corner of the company identification labels which have been provided to you.

3—Page: Sequentially assign a page number to each copy of each schedule. Enter the total number of each schedule being submitted on item 11 on Schedule A.

4—Reporting Period: Enter the reporting period for which this schedule is being submitted. Enter in the format MMY. For example, September of 1979 would be 0979.

5—Note whether this is an original or revised report.

Schedule A

Specific Instructions

Item and Instructions

Part I—Identification

1-8—Complete items 1 through 8 only if information shown on the label is incorrect. If changes need to be made, cross out the inappropriate information and provide the correct information in the space to the right.

9—Enter the month and year of the reporting period.

11—Enter the total number of each schedule being submitted.

13—Mark the appropriate type of entity according to the definitions provided. Firms operating in more than one capacity should mark the first level of distribution. For example, refiners would mark refiner, while a firm engaging in both reselling and retailing should mark reseller. The type of entity marked should not change from month to month but should reflect the activity of the firm over the year.

Part II—Certification

14-17—Enter the name and title of the individual designated by the company to sign the certification. The individual must sign in

the space provided on the form and enter the date of the signing.

Schedule B

National Sales of Motor Gasoline

Part II—National Data

Item

6—Report all volumes to the nearest thousand (1,000) gallons; e.g., report 6,500 as 7 and 6,400 as 6.

Include in the column headed "Other Direct Sales" all sales to ultimate consumers that are not made through company-operated retail outlets.

Report the entire volume of gasoline (both the unleaded gasoline and the alcohol) in the category "unleaded premium."

Schedule C

National Sales of Distillates, Aviation Fuels, Residual Fuel Oils and Propane

Part II—National Data

Item

6—Report all volumes to the nearest thousand (1,000) gallons; e.g., report 6,500 as 7 and 6,400 as 6.

In those columns labeled "Sales to Ultimate Consumers," report those sales to any firm or individual who purchased product for their own consumption and not for resale.

In those columns labeled "Sales to Non-Ultimate Consumers," for each product, report sales to those firms or individuals who are engaged in refining, reselling or retailing refined petroleum products. If the firm or individual is engaged in one or more of these activities, report the sale in the column which represents the first level of activity; e.g., for sales to a reseller/retailer report in the "to Reseller" column.

Schedule D

State Sales and National Purchases of Number 2 Distillate

Part II—State Distillate Sales

Item

6—Enter the abbreviation of the state for which this schedule is being submitted. (See Appendix A.)

7 and 8—Report sales in the state where the transfer of title occurred. For FOB sales at a refinery/terminal, the state is the one in which the refinery/terminal is located. For delivered sales (by any mode of conveyance), the state is the one in which the buyer received the product.

Report all volumes to the nearest thousand (1,000) gallons; e.g., report 6,500 as 7 and 6,400 as 6.

7—Reported volume and price data are to be classified in accordance with *what the product was sold as, regardless of the actual specifications of that product*. If a No. 2 Distillate was sold as a diesel fuel, report that volume and price in the category "No. 2 Diesel Fuel"; if a No. 2 Distillate was sold as a heating or fuel oil, report that volume and price in the category "No. 2 Fuel Oil" even if that product conformed to the higher specifications of a diesel fuel. If sales of a No. 2 Distillate were made for which no determination can be made as to whether the product was specifically sold as either a fuel

oil or a diesel fuel, sales volumes and prices should be classified in accordance with your best estimate of the *intended use of the product regardless of the product specification*; i.e., sales of No. 2 Distillate that you believe will be used for heating purposes or as a boiler fuel should be reported under "No. 2 Fuel Oil"; sales of No. 2 Distillate that you believe will be used as transportation fuels should be reported as "No. 2 Diesel Fuel."

Reported sales of No. 2 Fuel Oil under the category "Residential" should include those sales of product delivered to customers for the purposes of heating their homes.

Reported sales of No. 2 Diesel Fuel under the category "Retail" should only include those sales at respondent-operated retail outlets or other outlets at which the company establishes the price.

Reported sales of either No. 2 Fuel Oil or No. 2 Diesel Fuel under the category "Commercial/Institutional" should include those sales of product to firms engaged in transportation, wholesale or retail trade, finance, insurance and real estate. Also included should be those sales to hotels and office buildings or complexes, sales to local, state or federal governmental facilities or organizations along with military sales including those directed to post exchanges. Sales to schools, hospitals, religious institutions, universities or other government supported organizations are also to be included in this category.

Reported sales of either No. 2 Fuel Oil or No. 2 Diesel Fuel under the category "Industrial/Utility" should include those sales of product to public or private firms engaged in mining, construction, or manufacturing, or engaged in communications, electric, gas and/or sanitary services.

Report sales of either No. 2 Fuel Oil or No. 2 Diesel Fuel to customers not included in any of the above four categories under the category "Other" (e.g., sales to agricultural customers).

For sales to non-ultimate consumers, for each product, report sales to those firms or individuals who are engaged in refining, reselling or retailing refined petroleum products. If the firm or individual is engaged in one or more of these activities, report the sale in the column which represents the first level of activity; e.g., for sales to a reseller/retailer, report in the "to Reseller" column.

Reported volume and price data are to be classified in accordance with *what the product was sold as, regardless of the actual specifications of that product*. If a No. 2 Distillate was sold as a diesel fuel, report that volume and price in the category "No. 2 Diesel Fuel"; if a No. 2 Distillate was sold as a heating or fuel oil, report that volume and price in the category "No. 2 Fuel Oil" even if that product conformed to the higher specifications of a diesel fuel. If sales of a No. 2 Distillate were made for which no determination can be made as to whether the product was specifically sold as either a fuel oil or a diesel fuel, sales volumes and prices should be classified in accordance with your understanding of the product's actual specifications. (See product definitions.)

Part III National Purchase Data

Item

9—Round purchase volumes to the nearest thousands of gallons.

Unit costs should equal the total cost of products purchased by the entire firm during the reporting period divided by the total number of gallons actually purchased; do not calculate unit costs using rounded volumes. They should be reported in dollars per gallon with three digits to the right of the decimal. Unit costs should include any transportation costs which have been included in the purchase price of the product, but should exclude all taxes.

Enter the appropriate volume and the unit cost for all No. 2 Fuel Oil and No. 2 Diesel Oil purchased for the entire firm during the reporting month.

Categorize purchases of No. 2 Distillate in accordance with the product specifications. If a product meets the ASTM specifications for No. 2 Diesel Fuel, report those volumes and prices as No. 2 Diesel Fuel. Report the remaining volumes of No. 2 Distillate which do not meet the specifications for No. 2 Diesel Fuel, as No. 2 Fuel Oil.

Schedule E

Product Supplied to States for Consumption

For general instructions and definitions refer to the Instructions for Filing the EIA-782.

1. Who must submit this report:

All suppliers (or producers in the case of propane) who make the first sale of any of the commodities listed on Schedule E and deliver that product into a state for consumption must complete and submit Schedule E each month. Transactions which occur for transshipment only should be excluded. The term "delivery" shall include those sales made FOB the terminal and/or refinery rack.

If a supplier sells and delivers product to a wholesale-purchaser (either a reseller or a refiner acting as a reseller) and the product is for consumption in only one state, the supplier selling the product to the reseller must report the volumes involved on Schedule E. If, however, the product is to be resold for consumption not in the state where it was purchased but into one or more other states, the reseller is required to report those volumes on this schedule. To preclude double counting of the same volume of product or the emission of certain product volumes, reporters (both refiner and resellers) are encouraged to coordinate the volumes they report with their customers and/or suppliers.

2. What to submit and to whom:

Submit to the U.S. Department of Energy a separate Schedule E for each state into which the supplier makes the first sales of, and delivers any of the listed products for final consumption.

Submit a duplicate of each Schedule E directly to the appropriate state energy officers. These schedules are also due in the state energy offices no later than 20 days following the end of the reporting period.

To obtain a list of the state energy offices call toll-free on (800) 424-9041 and refer to Form EIA-782.

3. Part I identification data:

Item

4—Reporting Period: Enter in the format M Y Y the reporting period for which this schedule is being submitted. If, for example, actual deliveries for June, 1982 are being reported in Part II, Column (a), 0682 should be entered in item 4.

4. Part II state data:

Item

7—Enter the abbreviation of the state for which this schedule is being submitted. Refer to Appendix A for a list of standard abbreviations.

8—Columns (a) and (b):

a. Do not enter any punctuation, such as decimals and commas.

b. Report all volumes to the nearest thousand gallons (1,000); e.g., report 6,500 as 7 and 6,400 as 6.

Column (a):

a. In the heading enter the month of the reporting period; i.e., the reference month for which the EIA-782 is being filed. This should be the same as the month entered in item 4 above.

b. Complete column (a) for all of the listed petroleum products which your firm sold and delivered in the state in the reference month.

Column (b):

a. In the heading enter the second month following the reporting period. For example, on a June EIA-782 report (reference period is June) enter June in Column (a) and August in Column (b).

b. Complete column (b) for all of the listed petroleum products which your firm expects to be sold and delivered in that state for consumption during the second month following the reference month.

Appendix A

List of Standard State Abbreviations

AL Alabama
AK Alaska
AZ Arizona
AR Arkansas
CA California
CO Colorado
CT Connecticut
DE Delaware
DC District of Columbia
FL Florida
GA Georgia
HI Hawaii
ID Idaho
IL Illinois
IN Indiana
IA Iowa
KS Kansas
KY Kentucky
LA Louisiana
ME Maine
MD Maryland
MA Massachusetts
MI Michigan
MN Minnesota
MS Mississippi
MO Missouri
MT Montana
NE Nebraska
NV Nevada
NH New Hampshire
NJ New Jersey
NM New Mexico
NY New York

NC North Carolina
ND North Dakota
OH Ohio
OK Oklahoma
OR Oregon
PA Pennsylvania
RI Rhode Island
SC South Carolina
SD South Dakota
TN Tennessee
TX Texas
UT Utah
VT Vermont
VA Virginia
WA Washington
WV West Virginia
WI Wisconsin
WY Wyoming

EIA-782

Definitions

Aviation Gasoline—A petroleum based fuel designed for use in aircraft internal combustion engines and complying with MIL-G-5572 specification D-910.

Branded Gasoline—A motor gasoline sold by a respondent with the understanding that the purchaser has the right to resell the product under a trademark, trade name, service mark, or other identifying symbol or name owned by a refiner.

Commercial/Institutional—Firms engaged in transportation, wholesale or retail trade, finance, insurance, and real estate. Also included are hotels, and office buildings or complexes, local, state or federal governmental facilities or organizations including the military, schools, hospitals, religious institutions, universities and all other government supported organizations.

Company Operated Branded Retail Outlet—Any retail outlet selling branded gasoline which is under the direct control of the company filing this report by virtue of the ability to set the retail product price and directly collect all or part of the retail margin. This category includes retail outlets: (1) being operated by salaried employees of the company and/or its subsidiaries and affiliates; and/or (2) involving personnel services contracted by the company.

Distillate Fuel—A general classification for one or more distilled petroleum fractions used for domestic heating and industrial burners, or for power generation in compression-ignition engines. Included are products known as No. 1 Fuel Oil, No. 2 Fuel Oil, No. 1 Diesel Fuel, No. 2 Diesel Fuel, No. 4 Fuel Oil, and No. 4 Diesel Fuel.

a. No. 1 Distillate—A petroleum distillate which meets the specifications for No. 1 Heating or Fuel Oil as defined in ASTM D-396 and/or the specifications for No. 1 Diesel Fuel as defined in ASTM D-975.

b. No. 1 Diesel Fuel—A volatile kerosene-type distillate for high-speed diesel engines in service comprising wide variations in speed and load. Includes type C-B diesel fuel used for city buses and similar operations. Properties are defined in ASTM Specifications D-975.

c. No. 1 Fuel Oil—A light distillate fuel oil intended for use in vaporizing pot-type burners. Properties are defined in ASTM Specification D-396.

d. No. 2 Distillate—A petroleum distillate which meets the specifications for No. 2 Heating or Fuel Oil as defined in ASTM D-396 and/or the specifications for No. 2 Diesel Fuel as defined in ASTM D-975.

e. No. 2 Diesel Fuel—A gas oil type distillate for use in high-speed diesel engines generally operated under uniform speed and load conditions. Includes Type R-R diesel fuel used for railroad locomotive engines, and Type T-T for diesel-engines trucks. Properties are defined in ASTM Specifications D-975.

f. No. 2 Fuel Oil—A distillate fuel oil for use in atomizing type burners for domestic heating, or for moderate capacity commercial-industrial burner units. Properties are defined in ASTM Specification D-396.

g. No. 4 Fuel—A petroleum distillate which meets the specifications for No. 4 Fuel Oil and/or No. 4 Diesel Fuel.

h. No. 4 Diesel Fuel—A low volatility distillate, or blend of such distillate and residual fuel oil, for low and medium-speed diesel engines in sustained constant-speed service. Properties are defined in ASTM Specifications D-975.

i. No. 4 Fuel Oil—A fuel oil for commercial burner installations not equipped with preheating facilities. Extensively used in industrial plants. This grade is a blend of distillate and residual fuel oil stocks, but can be a heavy distillate with properties defined in ASTM Specification D-396.

Finished Motor Gasoline—A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, obtained by blending appropriate refinery streams to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D-439) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. EXCLUDES: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and no longer separately identified.

a. Leaded Motor Gasoline—A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, obtained by blending appropriate refinery streams to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D-439) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. It is produced with the use of any lead additive or which contains more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. EXCLUDES: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and no longer separately identified.

b. Leaded Premium Motor Gasoline—As defined in ASTM D-439, gasoline anti-knock designation 5 produced with the use of any lead additives or which contains more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus. EXCLUDES: Any blendstock until blending has been completed

and the blendstock is incorporated in the finished leaded gasoline and can no longer be separately identified.

c. **Leaded Regular Gasoline**—As defined in ASTM D-439, gasoline anti-knock designation 3 produced with the use of any lead additives or which contain more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus. EXCLUDES: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and can no longer be separately identified.

d. **Unleaded Motor Gasoline**—A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, obtained by blending appropriate refinery streams to form a fuel suitable for use in spark ignition engines. Includes all refinery products with the gasoline range (ASTM Specification D-439) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. It contains not more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. EXCLUDES: Any blendstock until blending has been completed and the blendstock is incorporated in the finished unleaded gasoline and no longer separately identified.

e. **Unleaded Premium Motor Gasoline**—As defined in ASTM D-439, gasoline anti-knock designation 4 containing not more than 0.05 grams of lead per gallon and not more than 0.005 grams of phosphorus. (In this survey, gasohol (the entire volume) should be reported as unleaded premium.)

f. **Unleaded Regular Motor Gasoline**—As defined in ASTM D-439, gasoline anti-knock designation 2 containing not more than 0.05 grams of lead per gallon and not more than 0.005 grams of phosphorus.

Firm—Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity, however organized, including charitable, educational, or other eleemosynary institutions, and the Federal government including operations, departments, Federal agencies, and other instrumentalities, and State and local governments. A firm includes a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

Gasohol—A blend of unleaded motor gasoline with alcohol (generally ethanol) in which 10 percent or more of the product is alcohol or such other blend as recognized by DOE.

Industrial/Utility—Firms engaged in mining, construction, or manufacturing, or engaged in communications, electric, gas, and/or sanitary services.

Kerosene—A refined petroleum distillate conforming to the requirements of ASTM D-

3699. Two classifications are recognized by ASTM D-3699: No. 1-K and No. 2-K.

Kerosene Base Jet Fuel—A quality kerosene product covered by ASTM Specification D-1655. Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosene type. Includes Military Specification MIL-T-5624 (JP-5).

Naphtha Base Jet Fuel—A fuel in the heavy naphtha boiling range covered by ASTM Specification D-1655 and meeting Military Specifications MIL-T-5624 (JP-4). Used for turbojet and turboprop aircraft engines, primarily by the military. EXCLUDES: ram-jet and petroleum rocket fuels which are included in other finished products.

Navy Special Residual Fuel Oil—A grade of residual fuel oil meeting U.S. Government Specification MIL 859D (NATO symbol F-77) for use in steam-powered vessels in government service and in shore power plants.

Parent—A firm which directly or indirectly controls another entity.

Propane, Consumer Grade—A normally gaseous paraffinic compound (C_3H_8), which includes all products covered by NGPA specifications for commercial and HD-5 propane. EXCLUDES: feedstock propanes, which are propanes not classified as consumer grade propanes, including the propane portion of any NGL mixes, i.e., butane-propane mix.

Refiner—A firm (other than a reseller or retailer) or that part of such a firm which refines products or blends and substantially changes products, or refines liquid hydrocarbons from oil and gas field gases, or recovers liquified petroleum gases incident to petroleum refining and sells those products to resellers, retailers, reseller-retailers or ultimate consumers. "Refiner" includes any owner of products which contracts to have those products refined and then sells the refined products to resellers, retailers, or ultimate consumers.

Reporting Period—The calendar month and year to which the reported cost, price, and volume information relates.

Reseller—A firm (other than a refiner or retailer) or that part of such a firm which carries on the trade or business of purchasing crude oil and/or refined petroleum products and reselling them without substantially changing their form to purchasers other than ultimate consumers.

Residential—Those customers who purchase No. 2 Fuel Oil for the specific purpose of heating their homes.

Residual Fuel Oils—A general classification for fuels obtained as liquid still bottoms from the distillation of crude, used alone or in blends with heavy liquids from other refinery process operations. Includes

Grade No. 5 (Light and Heavy), No. 6, and Navy Special fuel oil. Properties are described in ASTM Specification D-396 and ASTM-975.

a. **No. 5 Residual Fuel Oil**—A refined residual product that remains after all lighter products have been distilled. The initial boiling point is about 700 degrees F. INCLUDES: (a) No. 5 (light)—with a kinematic viscosity between 28.4 cSt 65 cSt at 100 degrees F, and (b) No. 5 (heavy)—with a kinematic viscosity between 65 and 194 cSt at 100 degrees F. SOURCE: ASTM D-396.

b. **No. 6 Residual Fuel Oil**—A refined residual product that remains after all lighter products have been distilled. The initial boiling point is about 700 degrees F and the kinematic viscosity is between 92 cSt and 638 cSt at 122 degrees F. Includes: (a) Bunker C Fuel Oil and (b) Navy Special fuel oil. SOURCE: ASTM D-396, Military Specification MIL 859 E, including Amendment 2.

Retailer—A firm (other than a refiner or reseller) which carries on the trade or business of purchasing refined petroleum products and reselling them to ultimate consumers without substantially changing their form.

Sale—The transfer of title from the seller to a buyer for a price. Exclude: Intrafirm transfers, product consumed directly by the reporting firm, or sales of bonded fuel. Also exclude products delivered/loaned to exchange partners except where the amount given up exceeds the amount received and the differential is in fact invoiced as a sale during the reporting period.

Ultimate Consumer—An individual or firm which purchases product for its own consumption and not for resale.

Unit Cost—The total cost of product purchased during the reporting period divided by the total number of gallons purchased; also known as the weighted average cost. Total costs should exclude taxes but include transportation costs that were paid to the seller by the buyer as part of the purchase transaction.

Unit Price—Total revenue derived from the sale of product during the reporting period divided by the total volume sold; also known as the weighted average price. Total revenue should exclude all taxes but include transportation costs that were paid as part of the purchase price.

United States—The 50 states and the District of Columbia.

BILLING CODE 6450-01-M

U.S. DEPARTMENT OF ENERGY
Energy Information Administration
Washington, D.C. 20585

QUARTERLY PETROLEUM PRODUCT SALES REPORT
EIA-783

Schedule A.

This report is mandatory under the authority of P.L. 93-275, the Federal Energy Administration Act of 1974, and P.L. 96-102, the Emergency Energy Conservation Act of 1979. Late filing, failure to keep records, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions for provisions concerning confidentiality of data.

Part I: IDENTIFICATION DATA

Complete items 1 thru 8 for new reporters and corrections to label only.

- (Label)
1. Name _____
 2. DOE Identification Number _____
 3. Name of Contact Person _____
 4. Contact's Telephone Number _____
 5. Street/Box/RFD _____
 6. City _____ 7. State _____ 8. Zip Code _____
 9. Reporting Period: Quarter _____ Year _____
 10. Date of this Report: Month _____ Day _____ Year _____
 11. The following schedules are enclosed:
B _____ C _____
Numbers of each schedule _____
 12. What type of report is this?
(1) _____ Original
(2) _____ Revision, to Report Dated: _____ Month _____ Day _____ Year
 13. Type of Entity
(1) _____ Retailer
(2) _____ Reseller
(3) _____ Refiner

Part II - CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

14. Name _____ 15. Title _____ 16. Signature _____ 17. Date of Signing _____

Title 18 USC 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

SCHEDULE B

QUARTERLY STATE SALES OF MOTOR GASOLINES

Part I IDENTIFICATION DATA

1. Firm Name _____ 2. DOE I.D. Number _____ 3. page _____ 4. Reporting Period QTR _____ YR _____

5. a. _____ Original; b. _____ Revision, to Report Dated _____ MO _____ DAY _____ YR _____

Part II STATE DATA

6. Enter the abbreviation of the state for which the schedule is being filed (See Appendix A - List of State Codes) STATE _____

7. State sales volumes and selling prices - Enter the following information for sales in this state during the reporting period. Report all volumes in thousands of gallons and all unit prices in dollars per gallon rounded to the nearest tenth of a cent.

Products	Code	Sales to Ultimate Consumers				Sales to Non-Ultimate Consumers									
		Company Operated Retail Outlets	Other Direct Sales		To Refiners		To Resellers			To Retailers					
			Volume (a)	Unit Price* (b)	Volume (c)	Unit Price* (d)	Volume (e)	Unit* Price (f)	Volume (g)	Unit* Price (h)	Volume (i)	Unit* Price (j)	Volume (k)	Unit* Price (l)	Volume (m)
(1) Leaded Premium															
(2) Leaded Regular															
(3) Unleaded Premium**															
(4) Unleaded Regular															

NOTES: *Unit price should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale.
 **Include total sales of gasoline in the category Unleaded Premium.

EIA-783; Schedule B

SCHEDULE C

QUARTERLY PADD SALES OF DISTILLATES, AVIATION FUELS, RESIDUAL FUEL OILS AND PROPANE

Part I IDENTIFICATION DATA

1. Firm Name _____ 2. DOE I.D. Number _____ 3. page _____ 4. Reporting Period QTR _____ YR _____

5. a. _____ Original; b. _____ Revision to Report Dated _____ MO _____ DAY _____ YR _____

Part II PADD DATA

6. Enter the numeric code for the PADD for which this schedule is being filed (See Appendix B - List of PADD Codes). PADD _____
7. PADD sales volumes and selling prices - enter the following information for product sales in this PADD during the reporting period. Report all sales volumes in thousands of gallons and all unit prices in dollars per gallon rounded to the nearest tenth of a cent.

Products	Code	Sales to Ultimate Consumers		Sales to Non-Ultimate Consumers			
		Volume (a)	Unit Price* (b)	To Refiners		To Resellers	
				Volume (c)	Unit Price* (d)	Volume (e)	Unit Price* (f)
(1) No. 1 Distillate							
(2) Kerosene							
(3) No. 4 Fuel							
(4) Aviation Gasoline							
(5) Naphtha-Base Jet Fuel							
(6) Kerosene-Base Jet Fuel							
(7) Residual Fuel < 1% S							
(8) Residual Fuel > 1% S							
(9) Propane (Consumer Grade)							

NOTE: *Unit price should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale.

EIA-783; Schedule C

BILLING CODE 6450-01-C

Instructions for Filing the Quarterly Petroleum Product Sales Report EIA-783

General Information

I. Purpose

The EIA-783 is designed to provide quarterly data at the Petroleum Allocation for Defense District (PADD) and state level on the sales volumes and prices of selected petroleum products to various categories of end-users and non-end-users.

These data are used by the Department of Energy (DOE) in reviewing petroleum product supply, demand and price changes between and among PADDs and states.

These data are being collected pursuant to the provisions of the Federal Energy Administration Act of 1974, P.L. 93-275, and the Emergency Energy Conservation Act of 1979, P.L. 96-102.

II. Who Must Submit

All refiners and a scientifically selected sample of resellers and retailers of refined petroleum products must prepare and file the EIA-783 each quarter. Each respondent must submit the schedules specified on the company identification labels provided by the governments.

III. Where to Submit

Send the appropriate completed schedules of the EIA-783, as discussed in "Who Must Submit," to: Energy Information Administration, EI-421, Main Station: BF-118 Forrestal, U.S. Department of Energy, Washington, D.C. 20585.

IV. When to submit

This form must be postmarked and sent to DOE no later than 20 calendar days after the close of each calendar quarter.

V. Sanctions

This report is mandatory under Public Laws 93-275 and 96-102. Failure to comply with reporting requirements may result in criminal fines, civil penalties, and other sanctions as provided by law.

VI. Provisions for confidentiality of Information

The information contained on these forms may be:

- (1) Information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act, 5 USC 552(b)(4) (FOIA); or
- (2) Prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element by element basis if possible), in a letter accompanying the initial submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance

with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives the initial submission and does not also receive a request, with substantive justification, that the information submitted should not be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted by it on the form.

A new written justification need not be submitted each time the EIA-783 is submitted if:

- (1) The respondent's views concerning information items identified as privileged or confidential have not changed; or
- (2) A written justification setting forth the respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must also be made available, upon request, to the Congress or any committee of Congress and the General Accounting Office.

General Instructions

I. Report all data on an ownership (equity) basis.

II. Report only the data requested; i.e., we are not seeking full coverage of all petroleum products sold. The product slates are not intended to be comprehensive, nor are all respondents required to file all schedules.

III. Data entered should reflect only sales and purchases made during the reporting quarter. Wherever possible exclude from all schedules and calculations any material prior period adjustments to volumes and/or prices, and revise the report(s) for the appropriate prior period(s).

IV. Revisions to prior quarter's reports are also required for any changes that, in the respondent's best judgement, would materially change the respondent's prior report(s).

V. Material adjustments or changes to sales volumes or prices are those that, by their inclusion in current month's data or their exclusion from prior quarter's data, would cause reported volumes or unit prices to be unrepresentative of the actual quarterly level of sales or of the actual unit prices paid by customers in that quarter.

VI. Certified computer printouts that are generally in the format of the EIA-783 schedules will be accepted. Please request DOE approval in advance if you plan to submit computer printouts.

VII. Exclude amounts supplied to exchange partners except where the amount given up exceeds the amount received and the differential is invoiced as a sale during the reporting period.

VIII. Report all quantities in the units of measure requested on each schedule. Enter zero (0) if no volumes were sold.

IX. Unit prices and costs should be reported in decimals of U.S. dollars and expressed the nearest tenth of a cent (e.g., \$1.065). Unit prices are to be determined by dividing the total revenues derived from the sales of the product during the reporting period by the total number of gallons sold. The unit price is the same as the weighted average price for all sales of a particular

product to a particular group of customers or class-of-trade. The unit price of a particular product to a particular group of customers or class-of-trade. The unit price should be reported in dollars per gallon with three digits to the right of the decimal. These prices should exclude all taxes but include all transportation costs that were paid as part of the sales price at the point of sale. Do not calculate unit prices using rounded volumes.

X. In the event firms do not maintain information in sufficient detail to provide actual unit prices by the customer categories specified on the forms, estimates of unit prices may be provided. The basis for the estimates must be consistent with the standard accounting records maintained by the firm. The estimating procedure and data supporting the estimates should result in a reasonably accurate estimate which will be subject to review.

Schedule A

Specific Instructions

Part I—Identification

Item

1-8—Complete items 1 through 8 only if—information shown on the label is incorrect. If changes need to be made, cross out the inappropriate information and provide the correct information in the space to the right.

9—Enter the quarter and year of the reporting period.

1. January, February and March.
2. April, May and June.
3. July, August and September.
4. October, November and December.

11—Enter the total number of each schedule being submitted.

13—Mark the appropriate type of entity according to the definitions provided. Firms operating in more than one capacity should mark the first level of distribution. For example, refiners would mark refiner, while a firm engaging in both reselling and retailing should mark reseller. The type of entity marked should not change from quarter to quarter but should reflect the activity of the firm over the year.

Part II—Certification

Item

14-17—Enter the name and title of the individual designated by the company to sign the certification. The individual must sign in the space provided on the form and enter the date of the signing.

Schedule B

Quarterly State Sales of Motor Gasoline

Part I—Identification Data

Item

1—Firm Name: Enter the name of the reporting company.

2—DOE ID Number: Enter the 6-digit identification number assigned to the reporting company for this survey. This is the number printed in the upper left corner of the company identification labels which have been provided to you.

3—Page: Sequentially assign a page number to each copy of each schedule.

4—Reporting Period: Enter the reporting period for which this schedule is being

submitted. Reporting period designation must agree with that in Item 9 of Schedule A.

5—Note whether this is an original or revised report.

Part II—State Data

Item

6—Enter the abbreviation of the state for which this schedule is being submitted. (See Appendix A.)

7—Report all volumes to the nearest thousand (1,000) gallons; e.g., report 6,500 as 7 and 6,400 as 6.

Include in the column headed "Other Direct Sales" all sales to ultimate consumers that are not made through retail outlets.

Schedule C

Quarterly Padd Sales of Distillates, Aviation Fuels, Residual Fuel Oils and Propane

Part I—Identification Data

Item

1—Firm Name: Enter the name of the reporting company.

2—DOE ID number: Enter the 6-digit identification number assigned to the reporting company for this survey. This is the number printed in the upper left corner of the company identification labels which have been provided to you.

3—Page: Sequentially assign a page number to each copy of each schedule.

4—Reporting Period: Enter the reporting period for which this schedule is being submitted. Reporting period designation must agree with that in Item 9 of Schedule A.

5—Note whether this is an original or revised report.

Part II—Regional Data

Item

6—Enter the code for the region for which this schedule is being submitted. Region codes correspond to the Petroleum Administration for Defense District (PADD) codes with PADD 1 (the East Coast) being subdivided as follows:

1A. The states of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island and Connecticut

1B. The states of New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia

1C. The states of West Virginia, Virginia, North Carolina, South Carolina, Georgia, and Florida (see Appendix B).¹

7—Report all volumes to the nearest thousand (1,000) gallons; e.g., report 6,500 as 7 and 6,400 as 6.

In those columns labeled "Sales to Ultimate Consumers," report those sales to any firm or individual who purchased product for their own consumption and not for resale.

In those columns labeled "Sales to Non-Ultimate consumers," for each product, report sales to those firms or individuals who are engaged in refining, reselling or retailing refined petroleum products. If the firm or individual is engaged in one or more of these activities, report the sale in the column which represents the first level of activity, e.g., for sales to a reseller/retailer report in the "to Reseller" column.

¹ Map filed as a part of original document.

Appendix A

List of Standard State Abbreviations

AL—Alabama
AK—Alaska
AZ—Arizona
AR—Arkansas
CA—California
CO—Colorado
CT—Connecticut
DE—Delaware
DC—District of Columbia
FL—Florida
GA—Georgia
HI—Hawaii
ID—Idaho
IL—Illinois
IN—Indiana
IA—Iowa
KS—Kansas
KY—Kentucky
LA—Louisiana
ME—Maine
MD—Maryland
MA—Massachusetts
MI—Michigan
MN—Minnesota
MS—Mississippi
MO—Missouri
MT—Montana
NE—Nebraska
NV—Nevada
NH—New Hampshire
NJ—New Jersey
NM—New Mexico
NY—New York
NC—North Carolina
ND—North Dakota
OH—Ohio
OK—Oklahoma
OR—Oregon
PA—Pennsylvania
RI—Rhode Island
SC—South Carolina
SD—South Dakota
TN—Tennessee
TX—Texas
UT—Utah
VT—Vermont
VA—Virginia
WA—Washington
WV—West Virginia
WI—Wisconsin
WY—Wyoming

Appendix B

EIA-783

Definitions

Aviation Gasoline—A petroleum based fuel designed for use in aircraft internal combustion engines and complying with MIL-G-5572 specification D-910.

Branded Gasoline—A motor gasoline sold by a respondent with the understanding that the purchaser has the right to resell the product under a trademark, trade name, service mark, or other identifying symbol or name owned by a refiner.

Commercial/Institutional—Firms engaged in transportation, wholesale or retail trade, finance, insurance, and real estate. Also included are hotels, and office buildings or complexes, local, state or federal governmental facilities or organizations including the military, schools, hospitals,

religious institutions, universities and all other government supported organizations.

Company Operated Branded Retail Outlet—Any retail outlet selling branded gasoline which is under the direct control of the company filing this report by virtue of the ability to set the retail product price and directly collect all or part of the retail margin. This category includes retail outlets: (1) being operated by salaried employees of the company and/or its subsidiaries and affiliates; and/or (2) involving personnel services contracted by the company.

Distillate Fuel—A general classification for one or more distilled petroleum fractions used for domestic heating and industrial burners, or for power generation in compression-ignition engines. Included are products known as No. 1 Fuel Oil, No. 2 Fuel Oil, No. 1 Diesel Fuel, No. 2 Diesel Fuel, No. 4 Fuel Oil, and No. 4 Diesel Fuel.

a. No. 1 Distillate—A petroleum distillate which meets the specifications for No. 1 Heating or Fuel Oil as defined in ASTM D-396 and/or the specifications for No. 1 Diesel Fuel as defined in ASTM D-975.

b. No. 1 Diesel Fuel—A volatile kerosene-type distillate for high-speed diesel engines in service comprising wide variations in speed and load. Includes type C-B diesel fuel used for city buses and similar operations. Properties are defined in ASTM Specifications D-975.

c. No. 1 Fuel Oil—A light distillate fuel oil intended for use in vaporizing pot-type burners. Properties are defined in ASTM Specification D-396.

d. No. 2 Distillate—A petroleum distillate which meets the specifications for No. 2 Heating or Fuel Oil as defined in ASTM D-396 and/or the specifications for No. 2 Diesel Fuel as defined in ASTM D-975.

e. No. 2 Diesel Fuel—A gas oil type distillate for use in high-speed diesel engines generally operated under uniform speed and load conditions. Includes Type R-R diesel fuel used for railroad locomotive engines, and Type T-T for diesel-engines trucks. Properties are defined in ASTM Specifications D-975.

f. No. 2 Fuel Oil—A distillate fuel oil for use in atomizing type burners for domestic heating, or for moderate capacity commercial-industrial burner units. Properties are defined in ASTM Specification D-396.

g. No. 4 Fuel—A petroleum distillate which meets the specifications for No. 4 Fuel Oil and/or No. 4 Diesel Fuel.

h. No. 4 Diesel Fuel—A low volatility distillate, or blend of such distillate and residual fuel oil, for low and medium-speed diesel engines in sustained constant-speed service. Properties are defined in ASTM Specifications D-975.

i. No. 4 Fuel Oil—A fuel oil for commercial burner installations not equipped with preheating facilities. Extensively used in industrial plants. This grade is a blend of distillate and residual fuel oil stocks, but can be a heavy distillate with properties defined in ASTM Specification D-396.

Finished Motor Gasoline—A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives,

obtained by blending appropriate refinery streams to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D-439) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. Excludes: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and no longer separately identified.

a. **Leaded Motor Gasoline**—A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, obtained by blending appropriate refinery streams to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D-439) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. It is produced with the use of any lead additive or which contains more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. Excludes: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and no longer separately identified.

b. **Leaded Premium Motor Gasoline**—As defined in ASTM D-439, gasoline anti-knock designation 5 produced with the use of any lead additive or which contains more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus. Excludes: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and can no longer be separately identified.

c. **Leaded Regular Gasoline**—As defined in ASTM D-439, gasoline anti-knock designation 3 produced with the use of any lead additives or which contain more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus. Excludes: Any blendstock until blending has been completed and the blendstock is incorporated in the finished leaded gasoline and can no longer be separately identified.

d. **Unleaded Motor Gasoline**—A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, obtained by blending appropriate refinery streams to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D-439) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. It contains not more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. Excludes: Any blendstock until blending has been completed and the blendstock is incorporated in the finished unleaded gasoline and no longer separately identified.

e. **Unleaded Premium Motor Gasoline**—As defined in ASTM D-439, gasoline anti-knock designation 4 containing not more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus. (In this survey, gasohol (the entire volume) should be reported as unleaded premium.)

f. **Unleaded Regular Motor Gasoline**—As defined in ASTM D-439, gasoline anti-knock designation 2 containing not more than 0.05

grams of lead per gallon and not more than 0.005 grams of phosphorus.

Firm—Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity, however organized, including charitable, educational, or other eleemosynary institutions, and the Federal government including operations, departments, Federal agencies, and other instrumentalities, and State and local governments. A firm includes a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

Gasohol—A blend of unleaded motor gasoline with alcohol (generally ethanol) in which 10 percent or more of the product is alcohol or such other blend as recognized by DOE.

Industrial/Utility—Firms engaged in mining, construction, or manufacturing, or engaged in communications, electric, gas, and/or sanitary services.

Kerosene—A refined petroleum distillate conforming to the requirements of ASTM D-3699. Two classifications are recognized by ASTM D-3699: No. 1-K and No. 2-K.

Kerosene Base Jet Fuel—A quality kerosene product covered by ASTM Specification D-1655. Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosene type. Includes Military Specification MIL-T-5624 (JP-5).

Naphtha Base Jet Fuel—A fuel in the heavy naphtha boiling range covered by ASTM Specification D-1655 and meeting Military Specifications MIL-T-5624 (JP-4). Used for turbojet and turboprop aircraft engines, primarily by the military. Excludes: ram-jet and petroleum rocket fuels which are included in other finished products.

Navy Special Residual Fuel Oil—A grade of residual fuel oil meeting U.S. Government Specification MIL 859D (NATO symbol F-77) for use in steam-powered vessels in government service and in shore power plants.

Parent—A firm which directly or indirectly controls another entity.

Propane, Consumer Grade—A normally gaseous paraffinic compound (C_3H_8), which includes all products covered by NGPA specifications for commercial and HD-5 propane. Excludes: feedstock propanes which are propanes not classified as consumer grade propanes, including the propane portion of any NGL mixes, i.e., butane-propane mix.

Refiner—A firm (other than a reseller or retailer) or that part of such a firm which refines products or blends and substantially changes products, or refines liquid hydrocarbons from oil and gas field gases, or recovers liquefied petroleum gases incident to petroleum gases incident to petroleum refining and sells those products to resellers, retailers, reseller-retailers or ultimate consumers. "Refiner" includes any owner of products which contracts to have those products refined and then sells the refined products to resellers, retailers, or ultimate consumers.

Reporting Period—The calendar month and year to which the reported cost, price, and

volume information relates.

Reseller—A firm (other than a refiner or retailer) or that part of such a firm which carries on the trade or business of purchasing crude oil and/or refined petroleum products and reselling them without substantially changing their form to purchasers other than ultimate consumers.

Residential—Those customers who purchase No. 2 Fuel Oil for the specific purpose of heating their homes.

Residual Fuel Oils—A general classification for fuels obtained as liquid still bottoms from the distillation of crude, used alone or in blends with heavy liquids from other refinery process operations. Includes Grade No. 5 (Light and Heavy), No. 6, and Navy Special fuel oil. Properties are described in ASTM Specification D 396 and ASTM 975.

a. **No. 5 Residual Fuel Oil**—A refined residual product that remains after all lighter products have been distilled. The initial boiling point is about 700 degrees F. Includes: (a) No. 5 (light)—with a kinematic viscosity between 26.4 cSt 65 cSt at 100 degrees F, and (b) No. 5 (heavy)—with a kinematic viscosity between 65 and 194 cSt at 100 degrees F. SOURCE: ASTM D-396.

b. **No. 6 Residual Fuel Oil**—A refined residual product that remains after all lighter products have been distilled. The initial boiling point is about 700 degrees F. and the kinematic viscosity is between 92 cSt and 638 cSt at 122 degrees F. Includes: (a) Bunker C Fuel Oil and (b) Navy Special fuel oil. SOURCE: ASTM D-396, Military Specification MIL 859 E, including Amendment 2.

Retailer—A firm (other than a refiner or reseller) which carries on the trade or business of purchasing refined petroleum products and reselling them to ultimate consumers without substantially changing their form.

Sale—The transfer of title from the seller to a buyer for a price. Exclude: Intrafirm transfers, product consumed directly by the reporting firm, or sales of bonded fuel. Also exclude products delivered/loaned to exchange partners except where the amount given up exceeds the amount received and the differential is in fact invoiced as a sale during the reporting period.

Ultimate Consumer—An individual or firm which purchases product for its own consumption and not for resale.

Unit Cost—The total cost of product purchased during the reporting period divided by the total number of gallons purchased; also known as the weighted average cost. Total costs should exclude taxes but include transportation costs that were paid to the seller by the buyer as part of the purchase transaction.

Unit Price—Total revenue derived from the sale of product during the reporting period divided by the total volume sold; also known as the weighted average price. Total revenue should exclude all taxes but include transportation costs that were paid as part of the purchase price.

United States—The 50 states and the District of Columbia.

[FR Doc. 82-9625 Filed 4-8-82; 8:45 am]

BILLING CODE 6450-01-M

Best Great Federal Project

Friday
April 9, 1982

Part VI

Department of Education

Fund for the Improvement of
Postsecondary Education

DEPARTMENT OF EDUCATION

34 CFR Part 630

Fund for the Improvement of Postsecondary Education

AGENCY: Education Department.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues final regulations for the Fund for the Improvement of Postsecondary Education. These final regulations restructure the current regulations without significantly affecting the Fund's approach or its existing priorities. These regulations also increase the Fund's ability to respond to the changing needs in postsecondary education by increasing flexibility in the application selection process.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these regulations will take effect 45 days after publication in the *Federal Register*. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary intends to publish a notice in the *Federal Register* stating the effective date of these regulations.

ADDRESS: Russell Y. Garth, U.S. Department of Education, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3100, ROB 3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Russell Y. Garth, Telephone (202) 245-8091.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking, published in the *Federal Register* on September 30, 1981 (46 FR 48092), the Secretary proposed revisions to existing regulations for the Fund for the Improvement of Postsecondary Education (34 CFR Part 630) and invited public comment.

Public Comments on the NPRM and Responses

Following are four public comments received on the NPRM and the responses to each:

Section 630.12 Annual priorities.

Comment. One commenter observed that the legislative objectives were not completely reflected in the six priorities listed in the proposed regulations.

Response. A change has been made. The annual priorities now contain examples that reflect the eight objectives that are found in the authorizing statute.

Subpart D—How the Secretary Makes an Award

Comment. One commenter asked why the Director of the Fund was not mentioned in the proposed regulation, when both the statute and legislative history assign the Director a pivotal role in establishing procedures for evaluating applications.

Response. No change has been made. The term "Secretary" is merely a stylistic designation used in all Department regulations as a matter of reasonable uniformity. Its use is not intended to negate the effect of any statute. Another entity affected is the Director of the National Institute of Education.

Section 630.32 Selection criteria.

Comment. One commenter was concerned that the new provisions of § 630.32(b)(2)(v), relating to the applicant's relevant prior experience, and § 630.32(b)(3)(ii), relating to applicant's prior work in the area, would inhibit the Fund's prior policy of supporting new ideas and innovation.

Response. No change was made. Usually, all of the selection criteria will not apply to every competition. The intent of those provisions is not to alter the Fund's traditional practice of supporting new and untested ideas. They are intended to allow the Fund to consider, along with other criteria, the experience of the applicant in assessing the feasibility of proposed project, especially in the Practitioner/Scholars Competition and the Final Year Dissemination Competition.

Section 630.34 Other information and materials.

Comment. One commenter stated that the provisions of § 630.34, relating to other information to be requested from some applicants, may cause additional burdens on these applicants.

Response. No change is made. This section does not require or allow new applications or addenda. Rather, it is a means of notifying finalists in certain competitions that telephone interviews may be held in order to verify or clarify applications or that written materials (already in existence) may be requested or required for making final selections. It is the intention of the Fund that any burdens imposed on applicants by this procedure will be minimal.

Additional Changes to These Regulations

Following are two provisions that are being added to these regulations:

Section 630.3 Types of awards.

The term "cooperative agreements" has been substituted for the term "contracts" as a second type of assistance award in accordance with the authority provided under the Federal Grant and Cooperative Agreement Act of 1977. The Secretary will make this type of an award when an assistance relationship would be established in which substantial Federal involvement in a project is anticipated, or when Federal technical assistance is necessary in order to accomplish project goals. Also, a definition of this term is added under § 630.5.

Section 630.32 Selection Criteria.

In § 630.32, paragraph (b)(2)(ii) is revised by adding to the example of the "quality of the project design" an evaluation plan. By including an evaluation plan, there is now a means by which a grantee can describe how it will determine to what extent it has achieved the objectives of the planned project.

Burden Reduction

No comments were received from any postsecondary educational institutions regarding the possible duplication of reporting or recordkeeping requirements in the NPRM.

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is invited on whether there may be opportunities to reduce any regulatory burdens imposed by these regulations, especially with regard to paperwork and compliance requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. 84.116, Fund for the Improvement of Postsecondary Education)

Dated: April 8, 1982.

T. H. Bell,

Secretary of Education.

The Secretary redesignates Part 730 in Chapter VII of Title 34 of the Code of Federal Regulations as Part 630 in Chapter VI of Title 34 of the Code of Federal Regulations and revises redesignated Part 630 to read as follows:

PART 630—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Subpart A—General

- Sec.
630.1 Fund for the Improvement of Postsecondary Education.
630.2 Eligible parties.
630.3 Types of awards.
630.4 Regulations that apply to this program.
630.5 Definitions that apply to this program.

Subpart B—Projects the Secretary Assists Under This Program

- 630.11 Types of competition.
630.12 Annual priorities.

Subpart C—How to Apply for Assistance

- 630.21 Annual announcement.

Subpart D—How the Secretary Makes an Award

- 630.31 How the Secretary evaluates an application.
630.32 Selection criteria.
630.33 State comment.
630.34 Other information and materials.

Authority: Title X of the Higher Education Act of 1965, as amended by section 1001 of the Education Amendments of 1980, Pub. L. 96-374, 20 U.S.C. 1135, *et seq.*, unless otherwise specified.

Subpart A—General

§ 630.1 Fund for the Improvement of Postsecondary Education.

The purpose of the Fund is to assist educational institutions and agencies in improving postsecondary educational opportunities.

(20 U.S.C. 1135)

§ 630.2 Eligible parties.

Institutions of postsecondary education, a combination of institutions of postsecondary education, and other public and private educational institutions and agencies are eligible to receive an award.

(20 U.S.C. 1135)

§ 630.3 Types of awards.

(a) The Secretary awards grants and cooperative agreements under this program based on the evaluation procedures established.

(b) The Secretary does not make grants to an educational institution or agency other than a nonprofit or public institution or agency.

(c) The Secretary will incorporate additional conditions into each cooperative agreement awarded relating to the substantial involvement of the Government in the project.

(20 U.S.C. 1135, 1135a-2, 3474; 41 U.S.C. 505)

§ 630.4 Regulations that apply to this program.

(a) The following regulations apply to applicants for and recipients of grants and cooperative agreements under this part:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions), and Part 78 (Education Appeal Board).

(2) The regulations in this Part 630.

(b) The following provisions of EDGAR do not apply to this program:

(1) Section 75.201(a) (unweighted selection criteria);
(2) Section 75.202 through 75.206 (selection criteria); and
(3) Section 75.217(a)(2) (three or more persons to review applications).

(20 U.S.C. 1135, 1135a-2, 3474; 41 U.S.C. 505)

§ 630.5 Definitions that apply to this program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant.
Application.
Award.
Department.
EDGAR.
Grant.
Nonprofit.
Preapplication.
Private.
Project.
Public.
Secretary.

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Combination of institutions of postsecondary education" means a group of institutions of postsecondary education that have entered into a joint arrangement for the purpose of carrying out a common objective, or a public or nonprofit private agency, organization, or institution designated or created by a group of institutions of postsecondary education for the purpose of carrying out a common objective on their behalf.

"Cooperative agreement" means an assistance relationship in which substantial Federal involvement is anticipated.

"Educational institution or agency" means an entity that is either engaged in activities involving education or has jurisdiction over educational matters pursuant to State or local law.

"Fund" means the Fund for the Improvement of Postsecondary Education, the unit within the Department that administers the program covered by this part.

(20 U.S.C. 1135, 1141, 3474, 41 U.S.C. 505)

Subpart B—Projects the Secretary Assists Under This Program

§ 630.11 Types of competitions.

The Secretary accepts applications for assistance in two program competition categories described in this section. Each year the Secretary announces, as described in § 630.21, the types of competitions to be conducted and the information required for submitting and reviewing preapplications, when applicable. (See EDGAR §§ 75.130 through 75.134)

(a) *The Comprehensive Program Competition.* In this competition, the Secretary supports a broad range of projects that respond to immediate problems or issues in a variety of categories and that seek to improve postsecondary educational opportunities. The Secretary requires the submission of preapplications by applicants under this competition.

(b) *Targeted Competitions.* In these competitions, the Secretary focuses on one or several problem areas or improvement approaches in postsecondary education. Preapplications may be required of applicants under these competitions. The targeted competitions may include, for example—

(1) Special Focus competitions, in which the Secretary supports projects addressing a particular problem area or improvement approach in postsecondary education;

(2) National Project competitions, in which the Secretary supports projects addressing a particular problem area or improvement approach in postsecondary education. Grantees under National Project competitions shall collaborate in disseminating project results;

(3) Network competitions, in which the Secretary supports projects that bring together educational practitioners in a particular area of concern in a continuing association to improve practice in that area;

(4) Final Year Dissemination competitions, in which the Secretary supports efforts by grantees of the Fund to disseminate project ideas and results. Applicants in these competitions are limited to grantees of the Fund whose projects are in their final year of funding, except that a recipient of a single-year grant may apply for assistance under this competition within one year following the termination of its project; or

(5) Practitioner Scholars competitions, in which the Secretary supports efforts

by postsecondary educational practitioners to contribute to knowledge about postsecondary education or to the improvement of postsecondary education by producing a document or other product or by engaging in an activity designed to share the practitioner's knowledge with others.

(20 U.S.C. 1135)

§ 630.12 Annual priorities.

(a) Each year the Secretary announces, as described in § 630.21, the program priorities applicable to each competition to be conducted that year and the method that will be used in applying the selected priorities.

(b) Program priorities describe problem areas or improvement approaches in postsecondary education and may include, for example—

(1) Increasing the availability of high quality programs for all postsecondary students by developing educational programs and services that allow currently enrolled students from groups previously excluded from postsecondary educational participation to complete their educational goals;

(2) Expanding professional education and employment for racial or ethnic minorities and women by increasing access to postsecondary educational institutions at the graduate level and by increasing employment opportunities within postsecondary educational institutions for these populations;

(3) Expanding learning opportunities for the full-time worker by developing new educational programs and services for workers;

(4) Increasing the use of active modes of learning by using educational processes, such as internships, self-directed learning, learning groups, and interactive electronic technologies, that allow learners to take greater responsibility for their own learning;

(5) Enhancing the knowledge and abilities of postsecondary students by developing new or redefined curricular content and educational subject matters; and

(6) Improving leadership for new educational circumstances by encouraging efforts to renew and implement the educational missions of individual institutions or systems of institutions and to improve the management of postsecondary educational institutions;

(7) Establishing institutions and programs using the technology of communications;

(8) Improving graduate education, the instruction of academic professions, and the recruitment and retention of faculties; and

(9) Creating new institutions and programs for examining and awarding credentials to individuals, and reforming current institutional practices related to credentials.

(c) Under the Comprehensive Program competition, projects that do not address a priority are eligible for support if they address other significant problems in postsecondary education.

(20 U.S.C. 1135, 1135a-2, 3474)

Subpart C—How To Apply for Assistance

§ 630.21 Annual announcement.

Each year the Secretary announces in one or more application notices published in the *Federal Register*, the following:

(a) The types of competitions to be conducted (see § 630.11).

(b) Those competitions requiring preapplications and information about the submission and review of preapplications (see § 630.11).

(c) Program priorities selected for each competition and the methods that will be used in applying the selected priorities (see § 630.12).

(d) Selection criteria applicable to each competition and the methods that will be used in applying these criteria (see § 630.32).

(e) Those competitions in which other information or additional materials may be requested or required of applicants after applications have been submitted, and the kind of information or additional materials to be requested or required (see § 630.34).

(20 U.S.C. 1135, 1135a-2, 3474)

Subpart D—How the Secretary Makes an Award

§ 630.31 How the Secretary evaluates an application.

On the basis of the applicable selection criteria in § 630.32, the Secretary evaluates a preapplication or application. Any comments and recommendations received from State commissions as described in § 630.33, and other information requested or additional materials requested or required in accordance with § 630.34, may also be used in evaluating applications.

(20 U.S.C. 1135, 1135a-1, 1135a-2, 3474)

§ 630.32 Selection criteria.

Each year, in accordance with § 630.21, the Secretary announces the selection criteria that apply to each competition to be conducted that year. The selection criteria will be drawn from the criteria listed in paragraphs (a) through (c) of this section.

Each year, in accordance with § 630.21, the Secretary also announces the methods that the Secretary will use in applying the selection criteria in each competition. In applying the selection criteria, the Secretary first analyzes each application in terms of individual selection criteria, or groups of criteria, which may be given equal importance or ranked according to relative importance. The Secretary then makes a final evaluation based on an overall assessment of the extent to which each application satisfactorily addresses the applicable selection criteria.

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would—

(1) Achieve the purposes of the particular program competition as referenced in § 630.11;

(2) Address the program priorities for the particular program competition;

(3) Address an important problem or need;

(4) Represent an improvement upon, or important departure from, existing practice;

(5) Involve learner-centered improvements;

(6) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and

(7) Increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which—

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed project, as evidenced by, for example—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives, approaches, and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience;

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by, for example—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and
(iii) The potential for continuation of the proposed project beyond the period of funding (unless the project would be self-terminating);

(4) The activities of the project, if funded under a National Project competition, would contribute to a collaboration among other grantees under that competition; and

(5) The proposed project demonstrates potential for dissemination to or adaptation by other organizations, and shows evidence of interest by potential users.

(c) *Appropriateness of funding projects.* The Secretary reviews each application to determine whether support of the proposed project by the Secretary is appropriate in terms of the

availability of other funding sources for the proposed activities.

(20 U.S.C. 1135, 1135a-2, 3474)

§ 630.33 State comment.

The Secretary does not make an award for a project to a postsecondary institution applicant until the Secretary has afforded each appropriate State entity having an agreement under section 1203 of the Higher Education Act of 1965, an opportunity to submit its comments and recommendations on the application to the Secretary.

(20 U.S.C. 1135a-1)

§ 630.34 Other information or materials.

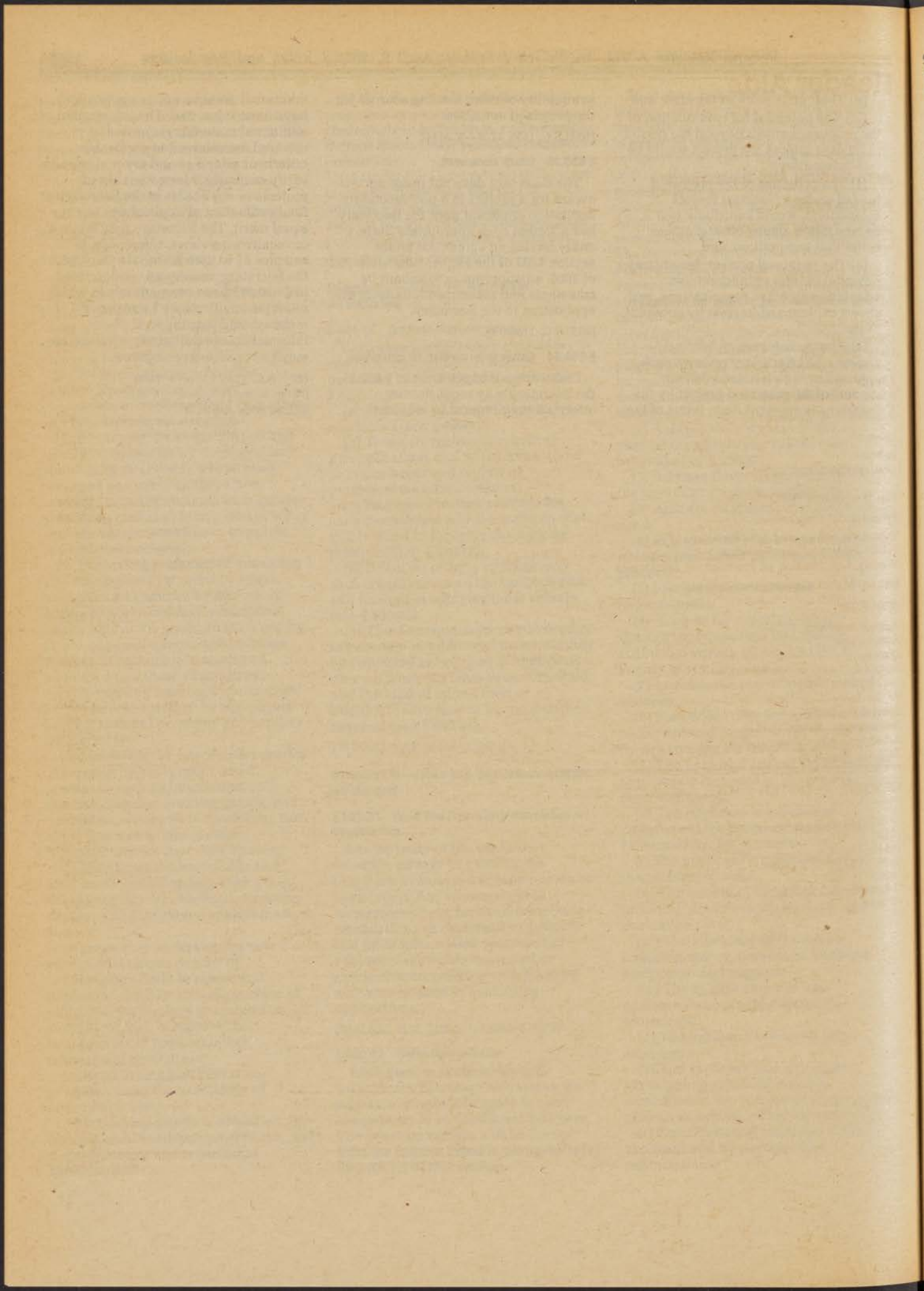
Under some competitions in § 630.11, the Secretary may request other information or request or require

additional materials after applications have been submitted. The information or additional materials requested or required are relevant to applicable criteria or priorities and are reviewed to verify or clarify information about projects or applicants in the Secretary's final evaluation of applications having equal merit. The Secretary may request or require interviews, references, or samples of written materials. Each year the Secretary announces, as described in § 630.21, those competitions in which other information may be requested or required, and lists the kind of information or additional materials that may be requested or required.

(20 U.S.C. 1135, 1135a-2, 3474)

[FR Doc. 82-9988 Filed 4-8-82; 11:55 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

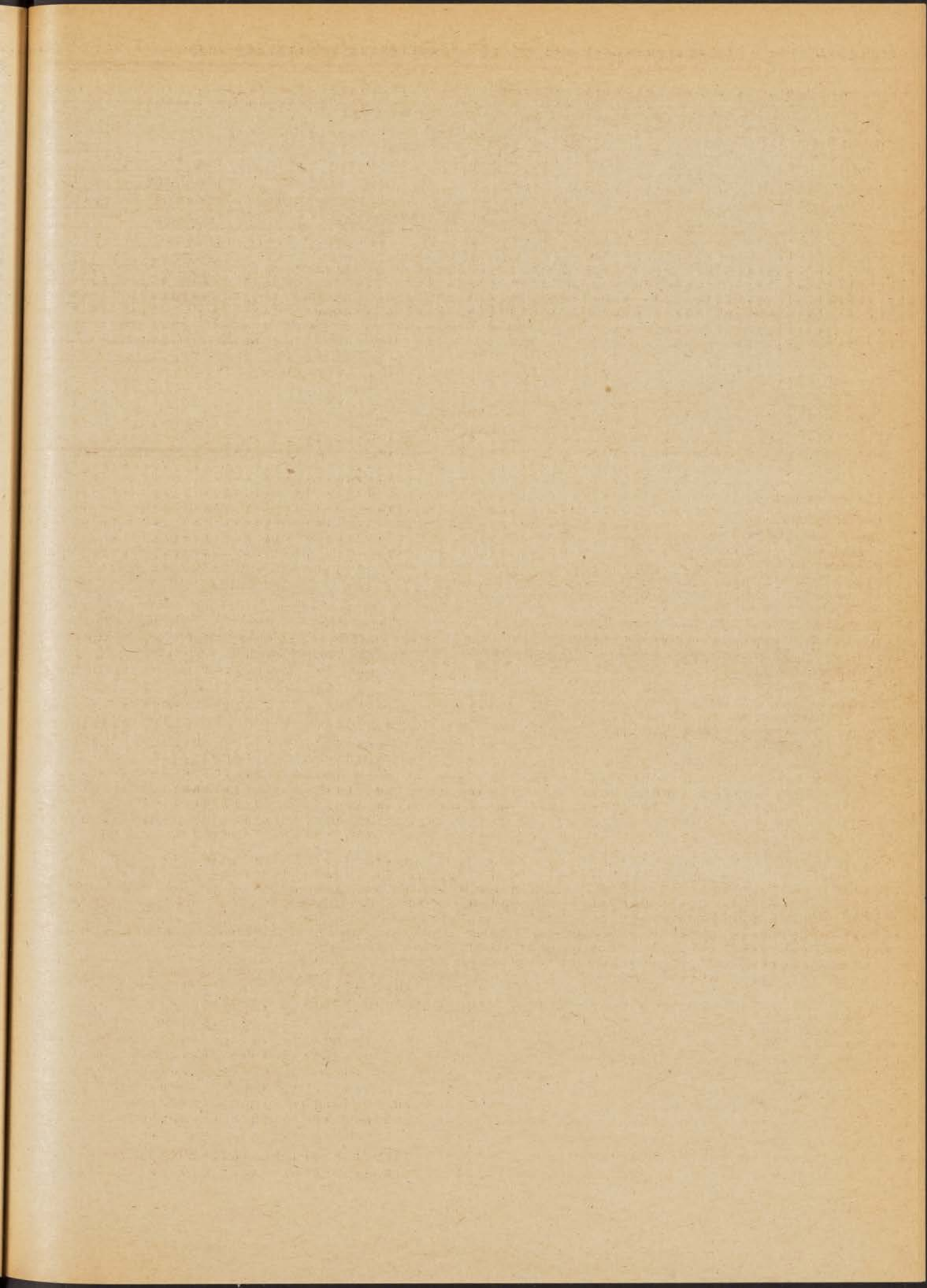
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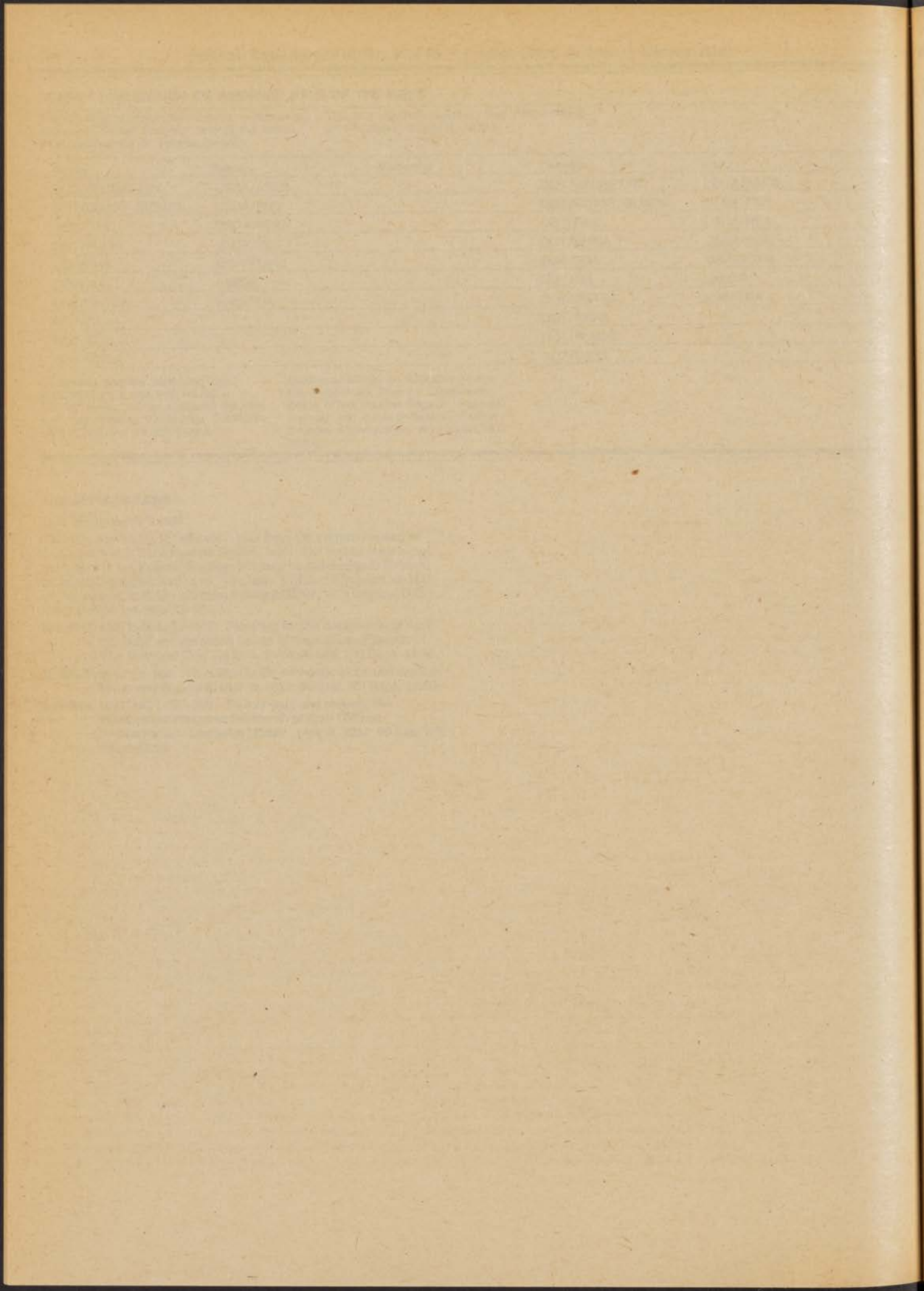
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H.J. Res. 435/Pub. L. 97-167 Providing for the designation of April 12, 1982, as "American Salute to Cabanatuan Prisoner of War Memorial Day". (Apr. 6, 1982; 96 Stat. 61) Price: \$1.50.

S. 634/Pub. L. 97-168 To authorize the exchange of certain lands in Idaho and Wyoming. (Apr. 6, 1982; 96 Stat. 63) Price: \$1.50.

S.J. Res. 102/Pub. L. 97-169 To authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month". (Apr. 6, 1982; 96 Stat. 65) Price: \$1.50.





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Revised as of January 1, 1964

Volume

Part

Section

1

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Title 42 - Public Health and Safety

Chapter

Part 1

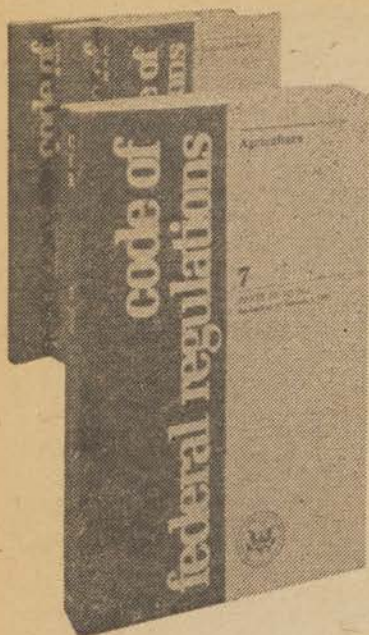
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